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NATURAL RESOURCE DEVELOPMENT AND HUMAN RIGHTS IN LATIN AMERICA

State and non-state actors in the promotion and opposition to extractivism

Edited by Malayna Raftopoulos and Radosław Powęska

HUMAN RIGHTS CONSORTIUM

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SCHOOL OF
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And when your fears subside
And shadows still remain
I know that you can love me
When there's no one left to blame
So never mind the darkness
We still can find a way
'Cause nothin' lasts forever
Even cold November rain

I dedicate this book to the memory of my brother Tomek (1977–2016)

R.P.

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Acknowledgements

This book is the outcome of a joint symposium on 'social-environmental conflicts, development dilemmas and human rights in Latin America', organised by the editors of this volume on behalf of the Human Rights Consortium, School of Advanced Study, University of London and the Centre for Latin American Studies, University of Warsaw. The international two-part event was held in 2015 first in London and shortly afterwards in Warsaw. Bringing together researchers from different countries and disciplines, the symposiums reflected on the complex and multifaceted links between natural resource development and human rights in Latin American contexts. The scientifically enriching debate inspired the editors to develop this book as a space for scholars who share complementary perspectives to discuss the politics of natural resource development in Latin America. The photographs chosen for this book cover, taken by Radosław Powęska during a fieldtrip to Bolivia, reflect the ugliness and destructive character of natural resource development that, for many communities in Latin America, has become part of their daily life and struggles.

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List of acronyms and abbreviations

ACHR	American Convention on Human Rights
CLACSO	Latin American Social Science Council
CSR	Corporate social responsibility
CSUTCB	Confederación Sindical Única de Trabajadores Campesinos de Bolivia
EJISDC	*Electronic Journal of Information Systems in Developing Countries*
ENCA	Environmental Network for Central America
FME	Federal Ministry of the Environment (Brazil)
GIS	Geographical Information Systems
HRD	Human Rights Defenders
HRIAs	human rights impact assessments
IACtHR	Inter-American Court on Human Rights
ICCPR	International Covenant on Civil and Political rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IFHR	International Federation for Human Rights
IPCC	Intergovernmental Panel on Climate Change
IWGIA	International Work Group for Indigenous Affairs
MAS	Movimiento al Socialismo
MDGs	Millennium Development Goals
NGOs	Non-governmental organisations
OAS	Organization of American States
PGIS	Participatory Geographical Information Systems
REDD+	Reducing Emissions from Deforestation and Forest Degradation plus Conservation and Sustainable Development
SMOs	Social Movement Organisations
TCC	Tierras Comunitarias Campesinas (Communitarian Peasant Lands)
TCO	Tierras Comunitarias de Origen
TIPNIS	Territorio Indígena Parque Nacional Isiboro Sécure
UNDESA	United Nations Department of Economic and Social Affairs

UNDHRD	UN Declaration on Human Rights Defenders
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change
UNGWP	United Nations Global Water Partnership
UNHRC	United Nations Human Rights Council
UNSRFOAA	Special Rapporteur of Freedom of Assembly and of Association
UNSRHRD	UN Special Rapporteur on Human Rights Defenders
URG	Universal Rights Group

Preface

The progressive and supposedly pro-indigenous regimes that emerged during the last decade were applauded by advocates of post-development or post-growth concepts for the incorporation of the sustainable and environmentally balanced model of *buen vivir* (live well). Inspired by indigenous cosmovisions and principles, it was expected to be a new alternative to the old-fashioned paradigm of unlimited resource exploitation and endless growth. However, the global boom in commodities prices has led Latin American governments to embrace extraction and the further commodification of natural resources as a key pillar of their development policy regardless of their political ideology. Extractivist activities, such as the expanding agro-industrial monocultures, road infrastructure and energy mega projects like hydro-electric dams, are provoking a growing number of conflicts with local communities throughout the region over control of land and resources, often leading to serious human rights abuses. Observers report violence and repression, pointing to the threat produced by such policies to the wellbeing of affected populations and the ability of indigenous peoples to sustain themselves both physically and culturally and also to defend their right to decide their own model of development. Despite the progress made within the international human rights legal framework, in particular the protection of indigenous rights, as well as national legislation introduced by states in Latin America regarding the rights of local communities in the last decades, the proliferation of extractivist activities has massively impacted on indigenous and peasant communities and the plundering of their resources. For many communities, extractivism means a neocolonial invasion that devastates territories, natural environment and human lives by converting them into elements of a global capitalist commodity chain. The explosion of social-environmental conflicts that has accompanied the expansion of extractive activities has posed a challenge to the political and economic ideology of the current development model. This challenge comes from the new relational ontologies of local and indigenous communities and cultures who have opened up debates about the relationship between the human and non-human world, the rights of nature and human rights and duties.

This book offers a multidisciplinary perspective on contemporary development discussions in Latin America, marked on the one hand by

the pursuit of economic growth, technological improvement and poverty reduction, and on the other by growing concern over the preservation of the environment and human rights. The discussions in the book are guided by two interconnected analytical frameworks: the clashing notions of development and nature between state and non-state actors in social-environmental conflicts and the promotion of current development priorities. The chapters in this volume address two critical questions: how and why do development priorities often override environmental, social and cultural concerns? And how do state and non-state actors contest extractivism? In doing so, they analyse some of the crucial challenges, contradictions and promises within current development, environmental and human rights practices in Latin America. Using the human rights framework as a lens to analyse social-environmental conflicts and the conflicting notions of development and nature among state and non-state actors, the collection brings together a variety of case studies from Latin America that deconstruct key concepts that underpin the human rights discourse on natural resources and development policies. The book focuses on the interaction of state and non-state actors in the promotion and opposition to natural resource development, taking a multi-level perspective that links the local, national, regional and transnational levels of inquiry. Each contribution examines the roles of contemporary states in the natural resource development, ranging from acting as a promotor of extractive industries and an ally of transnational capital, through to being rights brokers and agents of law enforcement and institutional order, to defending and guaranteeing the rights and interests of society. The multi-dimensional scope of the book reveals the intricacy of social-environmental conflicts. The collection contemplates the complex panorama of competing visions, concepts and interest grounded in the mutual influences and interdependencies that exist between state power agents, international institutions and legal systems, civil society and social movements, all of which determine the conditions, course and outcomes of these conflicts.

In the opening chapter, **Malayna Raftopoulos** and **Radosław Powęska** set out to offer an overview of some of the major themes and questions that mark current development and human rights theories and practices in Latin America. The link between human rights abuses and natural resources, particularly within mining and energy projects, has become the focus of growing concerns following the intensification of natural resource extraction and a permanent cause of social-environmental conflicts. As natural resources have become an increasingly contested and politicised source of development, the environment has emerged a new political background for human rights. Raftopoulos and Powęska introduce the dilemmas of natural resource development across the hemisphere that have been widely discussed in scholarly debates and beyond and emphasise the new theoretical, political and economic conceptualisations

of the relationship between humans and the natural environment that are being formulated, assessed and challenged in Latin America. Furthermore, the chapter raises questions over the role of contemporary states in natural resource development and the interaction between state and non-state actors in the promotion and protection of both human and environmental rights. By focusing on different, though interrelated, levels of interaction (local, national, transnational) between actors, this chapter sets out the challenging scenarios, sets of relations, mutual influences and dependencies that are currently shaping the contemporary arena of social-environmental conflicts in Latin America.

In chapter 2, **Radosław Powęska** examines indigenous rights under the Morales government and discusses how interethnic conflicts and the appropriation of the indigenous agenda by the state is hindering the challenge to extractivism in Bolivia. Powęska's critique of *buen vivir* and plurinationalism demonstrates why economic priorities are overriding indigenous rights and environmental concerns in Bolivia. Moreover, it reveals how the rhetoric of indigenous identity and nature interacts with the Bolivian government's focus on development priorities, with the state using this rhetoric to justify extractivist investments. Powęska argues that despite Morales' fame as a defender of Mother Earth, by focusing on the exploitation of fossil fuels to drive the country's economic development and fund the government's ambitious social programmes, his policies have quickly contradicted the official utopia of *buen vivir*. The expansion of mining and hydrocarbon sectors, as well as the realisation of infrastructural and energy projects, go hand in hand with undermining indigenous rights to decide autonomously their own model of development and environmental policy. However, as the chapter shows, indigenous peoples are far from united in their struggle against the state's extractivism. Numerous interethnic conflicts over territories and resources have come to the fore. The discrepancies in interests between various indigenous groups fuel different approaches to the very theme of indigenous rights and government policy. Moreover, due to its organic ties to social movements, the government represents itself as legitimate incarnation of indigenous power and natural advocate of indigenous peoples' interests. The 'indigenous state' has re-appropriated the indigenous agenda, domesticating it as part of state ideology and discursively transforming it to fit its own development and economic priorities, hindering the ability of indigenous peoples affected by extractivism to defend their rights.

Malayna Raftopoulos makes the case for carrying out a series of community-based human rights impact assessments (HRIAs) on the international mechanism Reducing Emissions from Deforestation and Forest Degradation plus Conservation and Sustainable Development (REDD+) in chapter 3. Raftopoulos problematises the common assumption that forest

protection through REDD+ also protects and promotes the rights of local communities and argues that more attention to the human rights dimension is needed in the debate. In outlining the prima facie case, Raftopoulos questions the commodification of nature in REDD+ and discusses the key issues of concern surrounding the scheme. Furthermore, in its discussion on why REDD+ necessitates a HRIA, the chapter explores the implications that a specific link between human rights and REDD+ would have on the promotion and protection of indigenous rights. Raftopoulos argues that understanding potential environmental and social harms connected to REDD+, the current legal duties and safeguards placed on national and regional governments with regards to the scheme and its potential human rights impacts on future generations is crucial to developing appropriate safeguards and incorporating procedural standards into the rhetoric of REDD+ in the future. Formulating this connection could potentially secure the protection of traditional knowledge, law, customs and lands of those communities in which it operates, ensuring that indigenous communities do not bear the negative costs of such policies.

Magdalena Krysińska-Kałużna in chapter 4 discusses the situation and reaction of indigenous peoples in the Amazon in response to extractive activities carried out without compliance to international human rights law. In her chapter, Krysińska-Kałużna also contrasts what the Peruvian government defines as the national interests in development with the indigenous response, resulting in repeated violent clashes. Focusing on the Cintas Largas in Brazil and the Wampis and the Awajún in Peru, Krysińska-Kałużna looks at the reasons behind the violent actions of and against indigenous peoples from the Amazon region to natural resource extraction projects taking place in their territories. The chapter also looks at the behaviour of the Mashco-Piro group who remain in voluntary isolation but have recently began to make contact with the outside world and have attacked neighbouring indigenous groups. The expansion of extractivist activities in the Amazon has led to a deterioration of the living conditions for many of the groups remaining in voluntary isolation. The chapter sets out to address whether such actions undertaken by indigenous peoples mean a rejection of 'Western' ways of doing things, or the opposite - their appropriation? Furthermore, is violence, used by the dominated minority – in this situation – an expression of strength or powerlessness in the face of imposed structures? Krysińska-Kałużna argues that while national societies require indigenous groups to adapt to the predominant standards of civilization, acting within the boundaries of existing legal regulations and without the use of violence, these same minorities encounter structural, institutional, cultural and physical violence on a daily basis at the hands of the dominant society, supporting the reproduction of patterns of violence.

In chapter 5, **Doug Specht** reflects on how cartography is used to control the exploitation of natural resource in Latin America and the role of counter maps to readdress the power dynamic. Specht argues that critical mapping strategies can allow for the inclusion of alternative knowledges and even the contestation of knowledge in social-environmental conflicts. The chapter explores the duality of digital neogeographies, examining the ways that in which they have been used to bring about the illusion of participation by INGOs. It also looks at how digital neogeographies have been used by local peoples to go beyond spatial representations and towards eliciting competing localities and grounded truths, which enunciate and draw conflict to the centre of attention. Specht argues that cartography, through increased access to digital platforms, has been slipping from the control of the powerful bourgeoisie bringing about the notions of 'neogeography' and the democratisation of participation. This has created the potential for an 'insurrection of knowledges' in which GIS platforms allow for the expression of a variety of knowledges creating a more level playing field for comparing consensus and division. In turn, this allows for a wider exploration of the cultural and political conditions that direct human understandings of the environment. These 'counter-maps' which express local knowledges in cartographic form can act as a powerful tool in promoting the rights of communities. Conversely, the shift towards GIS and Big Data analytics by international aid organisations has helped to reinforce historic power structures. The digital divide which had begun to close as access costs decreased has begun to open again as skill and infrastructure costs increase dramatically.

In chapter 6, **Robert Coates** reflects on the way human rights are constructed, justified and practised in relation to the human and the non-human, and on the authorities which claim to understand and demarcate both. Coates argues that the urbanization associated with the development process has contributed to natural disasters, underlining the interdependence between humans and their natural environment. The chapter examines the construction of vulnerability to floods and landslides in the Brazilian city of Nova Friburgo and asks what role human rights discourses can play in understanding, and ultimately reducing, vulnerability in these situations. Instead of viewing disasters as an exception to 'normal life', Coates sets out to unpack the everyday realities of vulnerability within the context of long-term flood and landslide risk. Drawing on extensive qualitative fieldwork, the chapter focuses on uncovering the meaning of rights and citizenship across the different social groups who are on the frontline of vulnerability and risk reduction in Nova Friburgo. Coates argues that human rights discourse, in which humans are viewed as separate to and dominant over nature and the non-human world, is too narrow to inform an understanding of vulnerability and disaster.

Questioning why flood hazards continue to increase, despite an understanding of rights and their associated interventions, the chapter contends that liberal governance, of which human rights discourse plays a role, depends upon its relationship to 'nature' – in the form of environmental problems – in order to declare what it is to be human. Coates argues that the discursive production of natural disasters serves to reproduce separation between the human and the environmental, which enables the urbanising, anthropocentric and vulnerable milieu to repeat in a cyclical fashion. Furthermore, disasters, externalised as natural, authorise liberalism to proclaim an absence of rights, which justifies urbanising interventions, ultimately leading to greater vulnerability.

Joanna Morley in chapter 7 explores the dynamics of the social-environmental conflict surrounding Nicaragua's Grand Canal project and questions it development potential. Morley uses the Nicaraguan Canal as a case study to challenge how indigenous rights inform participation and consultation as well as how the costs and benefits are distributed. The chapter focuses on the economic, environmental and human rights concerns of all the actors involved in the conflict, including local communities along the proposed canal route, the Nicaraguan government and the Hong Kong Nicaragua Development Group (HKND Group) – the Chinese firm behind the canal project. Morley argues that the extent to which the tensions and conflicts surrounding the construction of the Interoceanic Grand Canal in Nicaragua adhere to the observations of multiple international Special Rapporteurs regarding the human rights risks of indigenous peoples and human rights defenders, points to the unique and distinct nature of conflicts surrounding natural resource exploitation. In discussing the environmental and social consequences of mega-projects on human rights and the environment, the chapter argues that construction of the Grand Canal in Nicaragua, while seen as the platform for driving development and poverty reduction by the Ortega government, would have 'irreversible' consequences for eco-systems which are already threatened. Moreover, President Ortega's pragmatic political calculation to prioritise economic growth through the Grand Canal mega-project over the social and environmental pillars of sustainable development is evidence of political moves to the left that require pragmatic steps and are inherently contradictory, inevitably leading to conflict. The political cost of this choice has been the alienation of Ortega's traditional support base and strong opposition to the project. The chapter demonstrates that a state's adaptation to global influences and dependencies within economic and environmental governance hugely impacts the complex ecological, social and cultural relationships within local and regional environments.

Finally, chapter 8 by **Bogumiła Lisocka-Jaegermann** critically examines the concepts of sustainable development, the politics of place and decoloniality

which have been developed within three different theoretical and disciplinary contexts. The chapter discusses possible encounters of these three visions, drawing on critical reading of theoretical texts and the field experiences of the author, and also the tensions and contradictions which separate these concepts. Lisocka-Jaegermann argues that those using critical approaches within the social sciences should be seriously concerned about the power of concepts that organise research, which are usually organised in accordance to mainstream disciplinary paradigms. With thought and knowledge being strongly channelled through existing sets of ideas, it is very difficult to notice what is left behind. Therefore, attention must turn to thinking about the origins of key concepts and the hidden senses that they may contain. Critically dismantling traditional modes of thought and overall concepts, is critical to understanding both other-realities and our own limitations. Drawing on her research with afro-indigenous communities in rural and urban areas of Peru, Ecuador, Colombia and Venezuela, Lisocka-Jaegermann explores these three concepts within other-realities. Through theoretical discussion and analysis of practical experiences the chapter contributes to the reflection about the production of alternative concepts and models to counter prevailing visions of development.

1. Forces of resistance and human rights: deconstructing natural resource development in Latin America

Malayna Raftopoulos and Radosław Powęska

On 5 June 2009, the then-president Alan Garcia ordered Peruvian security forces to clear a narrow strip of highway, known locally as the Devil's Curve, outside the small city of Bagua Grande in the heart of the Amazon in northern Peru. Several thousand protestors led by the *Asociación Interétnica de Desarrollo de la Selva* (AIDESEP), a coalition of indigenous community organisations in the region, had been blocking the highway for several months in an attempt to cut off access to the Amazon jungle. The protestors demanded the repeal of two legislative decrees that opened up the Amazon rainforest to further oil exploration, mining, large-scale and agricultural development. With the protests escalating, Alan Garcia declared a state of emergency and deployed the military. The standoff at the Devil's Curve ended in a state-orchestrated massacre, with security services opening fire on protestors. According to official figures 34 people died, including 10 civilians and 23 policemen. However, there have been claims that the number of indigenous people who died was around 50 and victims' bodies were removed from the scene, burnt and disposed of by police in Utcubamba River. The incident at Bagua, known as the *Baguazo*, demonstrates the major challenge faced by communities throughout Latin America as governments in the region pursue natural resource development on the grounds of socio-economic development regardless of the social-environmental costs and at the abrogation of the most fundamental human rights that this development model entails.

The link between human rights abuses and natural resources, particularly within mining and energy projects, has become the focus of growing concerns following the intensification of natural resource extraction and a permanent cause of social-environmental conflicts. As natural resources have become an increasingly contested and politicised source of development, the environment has emerged as a new political battleground for human rights. This policy disposition has led to a plethora of social conflicts that are not just manifestations of struggles over human rights, forced displacement, citizenship

and control over political economic processes and natural resources but, as Blaser argues, are also in defence of the 'complex webs of relations between humans and nonhumans' that for indigenous peoples are 'better expressed in the language of kinship than in the language of property'. This opening chapter introduces the dilemmas of natural resource development across the hemisphere that have been widely discussed in scholarly debates and beyond, emphasising the new theoretical, political and economic conceptualisations of the relationship between humans and the natural environment that are being formulated, assessed and challenged in Latin America. Furthermore, it raises questions over the role of contemporary states in natural resource development and the interaction between state and non-state actors in the promotion and protection of both human and environmental rights. By focusing on different, though interrelated, levels of interaction (local, national, transnational) between actors, this chapter sets out the challenging scenarios, sets of relations, mutual influences and dependencies that are currently shaping the contemporary arena of social-environmental conflicts in Latin America.

Nature, knowledge and decoloniality

The continued reliance on the exploitation of natural resources, which has not been sufficient to overcome high levels of poverty and social injustice, and the destruction of nature in post-colonial regions as a consequence of this mode of development, has made scholars question established historiographical paradigms and led to the decentring of euromodernist perspectives. In Latin America, a cognitive and epistemic shift has been advocated over the last two decades or so in order to move away from modernist paradigms and to adopt original epistemological and ontological narratives in which rearticulating the natural environment's role is paramount. Intellectual and social actors from academia, social and indigenous movements, governmental and non-governmental institutions in the region have posed a challenge to the political and economic ontology of the current development model through new relational ontologies coming from local and indigenous communities and cultures (Coletta and Raftopoulos, 2016). This questioning of the historical as well as the theoretical legacy of modernist categories across disciplines has led to the evolution of the category of 'decoloniality' (Dussel, 2000; Quijano, 2000), and the search for new ways of understanding and approaching the region's post-colonial status. Diasporic Latin American scholars have begun to ask whether it was possible to imagine Latin America's future within the modernist paradigm, while acknowledging the fact that 'Euro-modernity' would not have been possible without colonialism (Mignolo, 2002; 2007). As Grosfoguel comments, '[c]oloniality and modernity constitute two sides of the same coin' (2007, p. 218). Therefore, unlike post-colonialism which indicates

a chronological process encompassing political, economic and cultural structures, decoloniality expresses a relational, non-linear and multidirectional structure which in itself does not respond to modernist patterns (Coletta and Raftopoulos, 2016).

Articulating the concept of modernity/coloniality, the Peruvian sociologist Anibal Quijano argued that the conquest of what is today known as Latin America 'began the constitution of a new world order, culminating, five hundred years later, in a global power covering the whole planet. This process implied a violent concentration of the world's resources under the control and for the benefit of a small European minority – and above all, of its ruling classes' (2007, p. 168). Linked to this Eurocentred coloniality of power, elaborated and consolidated through political and economic domains, was the coloniality of knowledge, expressed through the cultural complex of modernity/rationality. As Gudynas notes, 'modernity is a particular ontology that in the last centuries determined the division between nature and society, a colonial distinction between modern and non-modern indigenous peoples, the myth of progress as a unidirectional linear path, and a strong confidence on Cartesian science' (2011, p. 447). This dichotomy between subjectivity and objectivity, or the Cartesian distinction between a thinking subject and the object of the subject's thought, was reproduced in the European mind's objectification of the New World's nature. Critically, missing from this dichotomy was the idea of the 'other' which 'not only postulates an atomistic image of social existence in general; this is, it denies the idea of the social totality' (Quijano, 2007, p. 173). This made it possible 'to omit every reference to any other "subject" outside the European context' (Quijano, 2007, p. 173). The notion of totality resulted in the dominance of eurocentric epistemology that repressed non-western subaltern modes of knowing and producing knowledges, cultures and cosmovisions whilst simultaneously expropriating the knowledge, in areas such as mining and agriculture, and products of the colonised (Quijano, 2007). Euromodernist perspectives of nature exclude the idea of nature as a living being and as an object of rights. That is to say that, nature was and is identified as a resource and not as a living being. The denial of 'otherness' is vital to understanding how Latin American nature was historically created and also the pivotal role it has played in the importation of the modernist development category. Under the category of decoloniality, new ways of conceptualising nature and development have emerged that move away from the centre-periphery axis through the production and organisation of knowledge from multiple loci. As Radcliffe comments 'socio-natures – that is, the overlapping and mutually constitutive relations and material assemblages that blur a conceptual divide between nature and culture, humans and non-humans –

now lie at the heart of multidisciplinary debates about development' (2016, p. 161).

The alternative platforms put forward by the progressive left and centre left governments in the region have looked, at least discursively if not in practice, to transcend traditional growth-centric economic models and break imperialist dependency by offering radical alternatives to the way in which socio-economic development discourses are constructed. As Mignolo argues, for a de-colonial epistemic shift to occur there needs to be a de-linking from the 'colonial matrix of power and logic of coloniality embedded in la pensee unique' and an engagement in 'border epistemology and in alternatives TO modernity or in the global and diverse project of transmodernity' (2007, p. 456). The post-development concept of *buen vivir* [live well], which has gained broad social, cultural and political support in Ecuador and Bolivia, moves beyond traditional western development theory, based on a narrow set of indicators, transforming the relationship between development policy and social wellbeing. Distinct from western forms of knowledge, which are grounded on lineal advancement notions, the concept of *buen vivir* has emerged both as an expression of decolonial efforts and as an attempt to strengthen plural cultural identities (Gudynas, 2011). Deduced and inspired by the Andean indigenous philosophy and worldview, *buen vivir* is based upon the indigenous moral principles of reciprocity and complementarity (Medina, 2011; Huanacuni, 2012) and underlines the crucial goal of solidarity and balance within communities and also between humans and their natural environment (Nature as a subject). It abandons the utilitarian understanding of natural and human resources, paying less attention to accumulation in economic activity and focusing on the de-commodification of social relations (Acosta and Martinez, 2009; Farah and Vasapollo, 2011; Arkonada, 2012).

Both Bolivia and Ecuador have redefined themselves as plurinational states in a post-colonial context, incorporating *buen vivir* principles into their national development plans and new constitutions (Fatheuer, 2011). In Bolivia, *buen vivir* (officially *vivir bien* within Bolivia's nomenclature) represents the state's basic principles and orientation, promoting a pluralistic society's ethical and moral principles. It refers to the Aymara concept of Suma Qamaña and to the Guarani ideas of ñandereko [harmonious living], teko kavi [the good life], ivi maraei [the land without evil] and qhapaj ñan [the path to a noble life], emphasising in particular the protection of Pachamama [Mother Earth]. The Ecuadorian conceptual framework for *buen vivir* differs in that it refers to plural sets of rights based on the indigenous Quechua notion of sumak kawsay, which includes the rights to freedom, participation, health, shelter, education, food, as well as the rights of nature, rather than an ethical principle for the state as in the case of Bolivia (Gudynas, 2011, p. 443). *Buen vivir*

implies a comprehensive critique of euromodernity and modern ontological modernisation, presupposing, both in theory and practice, a new set of rights based on plurality and coexistence rather than on dialectical dualities and hierarchies. The incorporation of strong environmental and intercultural components into the rhetoric of *buen vivir* is contrary to modernist development ideas which view nature as a discrete system of 'resources' devoid of any intrinsic relational value (Gudynas, 1999). As Lalander explains, the Law of Mother Earth (established 2010) reconnects *buen vivir* and the ethno-environmental profile of Bolivia by embracing 'the rights to the protection of the integrity of life and natural processes, the continuation of vital life cycles and processes free from human alteration and to not be affected by mega-infrastructure and development projects that disturb the balance of ecosystems and local communities' (2017, p. 472).

The questioning of Western (mainstream) approaches to human rights and the incorporation of intercultural perspectives which expands the notion of human dignity marks one of the most important developments in the environmental rights revolution. As de Sousa Santos argues, this pragmatic transition in human rights is occurring because 'our time is witnessing the final crisis of the hegemony of the socio-cultural paradigm of western modernity', spread throughout the world through colonialism and imperialism (2009, p. 1). Hegemonic political thinking has reduced 'the understanding of the world to the western understanding of the world, thus ignoring or trivializing decisive cultural and political experiences and initiatives in the countries in the global South' (de Sousa Santos, 2009, p. 4). Therefore, conventional human rights have historically lacked the theoretical and analytical tools to position themselves in relations to movements of resistance, ignoring alternative ideologies that could contradict the universality of human rights or question the notion that human nature is individualistic, self-sustaining and fundamentally different from non-human nature. As Gionolla comments, 'in terms of their relationship to the environment, mainstream human rights approaches construct the protection of the environment as being an implication of the protection of human beings' (2013, p. 62). Indigenous movements in Latin America have played a critical role in moving environmental protection up the human rights agenda. Furthermore, they have led the transition towards a new approach to human rights built upon alternative cosmologies that offer an alternative conception of human dignity to the western notion, whereby nature has inalienable rights and the false dichotomy of humans being separate and superior to the non-human world is rejected. Recognition of 'rights of nature' in countries like Bolivia and Ecuador represents a transition away from euromodernist human rights discourses and is reflective of the 'epistemic turn' that has occurred in both the methodology and practice of critical thought in Latin America

since the late 1990s. These have questioned both the historical as well as the theoretical legacy of modernist categories and led to the adoption of original epistemological and ontological narratives. Yet despite incorporating the notion of living in harmony with nature into their national constitutions and granting nature inalienable rights, Ecuador and Bolivia, are still struggling to overcome the legacy of modernist development paradigms continually reinforced by the state (Raftopoulos, 2017).

The Commodity Consensus and extractivism

The dilemma between exploiting natural resources for socio-economic development and defending both human and environmental rights represents a major challenge for Latin American countries. Although the continent has a long history of extracting and exploiting natural resources dating back to the colonial era, there has been a marked increase in these activities in the region in the last decade or so, associated with the strong international demand for raw materials and a cycle of high prices. High demand for natural resources among both industrialised and newly industrialised countries, in particular China, has allowed natural resource exploitation to become both politically acceptable and a legitimate development strategy implemented over alternative concepts of development (O'Toole, 2014). However, the recent downturn in the price of minerals and hydrocarbons has further exacerbated the problem, as the decline in profits is offset by the further expansion of extractive frontiers. Less diversified economies dependent on natural resource extraction are more prone to export higher volumes at a lower price to recover revenue loses. Indigenous and peasant communities throughout the continent are engaged in a continual battle against natural resource exploitation, resulting in repeated clashes, violence, repression and human rights abuses perpetuated by the state or security forces. Increasingly, governments across Latin America are criminalising social protests through the use of repressive legislation, and deterring or curtailing communities and activists from political mobilisation through the use of violence, harassment and threats, as they seek to protect the large revenues associated with extraction and guarantee the supply of natural resources. According to a study conducted by Global Witness, 2016 was the worst year on record for the murder of land and environmental defenders, with a total of 200 assassinations across the globe, 122 of those taking place in Latin America. Moreover, in Latin America, there is no country with large-scale mining projects that is not involved in social conflicts. Repeated clashes between communities and both mining companies and those governments associated with them have led to emergence of self-organised (transnational) networks. Organisations such as the National Confederation of Communities Affected by Mining (Concacami) founded in Peru in 1999 and the Andean

Coordination of Indigenous Organisations (CAOI) founded in 2006, bring together grassroots movements to deal with the social-environmental challenges associated with extractivism (Global Witness, 2016, p. 55).

Over the last decade or so Latin America has moved away from the Washington Consensus model, with its focus on finance and neoliberal governance, towards the Commodity Consensus focused not on the re-design of the state but on enabling the large-scale export of primary products. This move marked the beginning of a new political-economy order that challenges existing state and social structures and also curtails democracy in the region (Svampa, 2013). While extractivism previously referred to activities that involved extracting, such as in mining, oil and gas, the term is now increasingly used to refer to the accelerated pace of natural resource exploitation at an industrial level and the construction of mega-projects and infrastructure intended to make full use of natural resources (UNHRC, 2015). From an economic stance, the commodity consensus has involved the reprimarisation of Latin American economies, 'emphasising their reorientation toward mainly extractive or rent-based activities, with little added value' (Svampa, 2015, p. 65). Socially, it has deepened the dispossession and accumulation of land and resources. Territories that were previously isolated or protected and 'often biologically fragile environments populated by vulnerable populations who share their land with minerals or energy sources' have been opened up for exploitation during the expansion of the extractive and infrastructure frontiers in Latin America (McNeish, 2012). As Acosta explains, the region's history tells us that the socio-economic conditions produced by extractivist economies lead to widespread poverty, social injustice and recurrent economic crisis. All of which 'aggravates the weakness and scarcity of the region's democratic institutions, encourages corruption, breaks up societies and local communities, and seriously damages the environment' (Acosta, 2013, p. 62).

Despite the region's changing political climate that saw the rise of left and centre-left governments in countries such as Bolivia, Brazil, Ecuador and Venezuela, accompanied by a shift towards new post-neoliberal and post-development agendas that questioned conventional means of development, the global surge in demand for raw materials cemented extractivism as the cornerstone of growth-oriented development policies in Latin America. Although the Washington Consensus is being questioned in Latin America, the neoliberal discourse is still very much hegemonic, with the neoliberal ideology interwoven with neo-extractivism. While post-neoliberal progressive regimes differ from typical neoliberal agenda by introducing protectionist mechanisms to defend their national economies from the negative impact of global flows of capital and market deregulation, there is a general acceptance of the global market relations to which every state needs to adapt, no matter its domestic

economic policy. Moreover, independently of competitive alternatives of 'less' vs. 'more' state, the discourse about universal and egalitarian economic development accessible for everyone that goes beyond the realm of politics has become hegemonic narrative independent of ideological banner. To go further, 'more state' is not perceived as opposition to global forces anymore, but as a way to guarantee better taking advantage of domestic resources in the global market competition. As Svampa remarks, the current development model based on extractivism 'draws from the idea of "economic opportunities" or "comparative advantage" provided by the commodities consensus and deploys social imaginaries (the vision of El Dorado) that overstep the political-ideological borders constructed in the 1990s' (2015, p. 67). This new order has also allowed progressive governments that question the neoliberal consensus to coexist with non-progressive governments that continue to deepen the neoliberal political agenda in Latin America (Svampa, 2015). While conventional extractivism, characterised by the limited role of the state, continues in those countries with non-progressive governments such as Peru and Colombia, Latin America's progressive governments have created a new type of extractivism that bears a 'progressive stamp' and whereby the state has taken on a much more active role. Under the framework of neo-extractivism, regulation of the appropriation of resources and export duties and taxes have increased, contracts have been renegotiated and surplus revenue has been redirected to social programmes (Gudynas, 2009).

The region's changing political climate fostered optimism that finally natural resource extraction could offer long-term, broad-based benefits to its local communities and national economies (Haarstad, 2012). However, even under its contemporary guise, neo-extractivism fails to substantially change the current structure of accumulation and move away from a productivist appropriation of nature; extractivist policies remain hegemonic in the region while the lingering and persistent problems associated with the previous imperialist system prevail. Although it was hoped that the rise of progressive governments in Latin America would lead to a transition away from extractivist activities towards a more sustainable type of development, these governments have in fact continued to maintain classic extractivism, albeit with a progressive twist. Veltmeyer and Petras argue that in opting for the resource development strategy, progressive governments have done little more than strike a better deal with 'the agents of global extractive capital in a coincidence of economic interests: to share the spoils (windfall profits and enhanced claims on ground rent)' (2014, p. 28). Consequently, the capitalist state remains 'at the centre of the system in its active support of extractive capital – in paving the way for the operations of extractive capital and backing up these operations with the power at its disposal' (Veltmeyer and Petras, 2014, p. 2). Progressive governments have

replaced the old extractivist discourse that pointed toward exports or the world market with one that points to globalisation and competition, conventional extractivism and neo-extractivism still share key aspects in common such as 'the appropriation of nature to feed economic growth, and the idea of development understood as an on-going, linear process of material progress' (Gudynas, 2013, p. 165). As Gudynas posits, the persistence of conventional development is symptomatic of 'how deeply rooted and resistant to change the ideologies of "modernity" and "progress" are in our culture' (2013, p. 168). Therefore, any alternative to development must deal with extractivism and promote a post-extractivist agenda that will break and overcome dependency, an idea that has been dismissed by critics as impossible or naive. This does not suggest a ban on all extractive industries but rather a massive decrease whereby the only industries left operating are those that are essential, directly linked to national and regional economic chains, and meet social and environmental conditions. To reach this stage, economies must move immediately from 'predatory extractivism' to 'sensible extractivism' where industries fully comply with social and environmental laws and are rigorously controlled, and finally to 'indispensable extractions' where only essential industries remain (Gudynas, 2013, p. 175). Furthermore, if the transition to post-extractivism is considered within the *buen vivir* framework, the process of change must meet two critical conditions: poverty eradication and prevention of new losses of biodiversity. This would involve considering both environmental limits and quality of life when considering the use of natural resources in the production matrix and reducing over-consumption, which contributes to poverty levels and environmental problems (Gudynas, 2013). Importantly, such a reformulation of natural resource development towards a 'sensible extractivism' model can be greatly compatible with indigenous peoples' perspective. It should be acknowledged that they are not necessarily against any kind of resource extraction or development projects as such, insofar as they are not imposed and are under the control of local communities, for the sake of securing their interests and diminishing possible negative outcomes. What indigenous peoples seek is rather a genuine recognition of their rights for sovereign decision-making on their territories and resources, fair and agreed benefits, and especially to set their own priorities according to their visions, traditions and values.

Civil society activism and conflicting notions of development

Current Latin American governments' continued fidelity to the neoliberal developmental agenda, coupled with globalisation, has led to a new cycle of protests in the region and opened up new political spaces for human rights

based resistance in natural resource governance. Peasant and indigenous communities throughout the continent have found themselves at the forefront of the resource wars, clashing with governments and multinational corporations over the use and control of the global commons. Territories containing natural resources have become sites of contestation and resistance against the neoliberal capitalist model, dominating visions of development and society-environment relations (Composto and Navarro, 2014; Bebbington, 2011a; Radcliffe, 2016). Mobilising around the crisis of the modernist paradigm, social movements, in particular indigenous movements, have 'posed a challenge to the political and economic ideology of the current development model through new relational ontologies coming from local and indigenous communities and cultures that have opened up debates about the relationship between the human and non-human world, the rights of nature and human rights and duties' (Raftopoulos, 2017). By challenging 'the epistemological frameworks based on a dialectic system of inclusion-exclusion upon which the developmentalist socio-economic model is based' (Coletta and Raftopoulos, 2016, p. 4), these agents of change have, and continue to, demand cultural recognition, political empowerment, territorial sovereignty, environmental rights and generally a greater say over their lives and future (Postero and Zamosc, 2004; Pajuelo Teves, 2007).

Escobar (1995; 2008) and Peet and Watts (1996) place strong emphasis on the role of social movements, understood as organised activism of local population with a pronounced counter power agenda, in the process of challenging globally dominating developmental discourse. For these authors, the dominating visions of development in a given society are enacted upon power relations operating within such society and as with everything that is politically conditioned, these visions or forms also can be subject to dispute. The very notion of development, as well as the question of the economic priorities, models of resources management, relation to and the very understanding of environment (ontology), the foreseen goals of development and the preferred values that should direct the viability of a given development model, can all be negotiated and are never natural. Such a social-constructivist perspective about development is part of a wider approach to social economic and developmental themes in a growing academic literature. Yet in Bourdieu's view the existing visions or beliefs about economy are a system of socially constructed beliefs without universal validity, rather a product of collective history in a long term (Bourdieu, 1977). These authors follow Polanyi's cultural approach to economics, seeing economics as embedded in society and its culture (Polanyi, 2010). Even the perception of poverty and well-being, and social responses to social-economic challenges (inequality, capital scarcity etc.) are determined by cultural patterns recreated in everyday practices and relations (Miyashita, 2009). It is mainly acknowledged that local people, particularly

indigenous peoples, share culturally specific understanding of and relations to their natural environment, given their intimate and prolonged interaction with local biophysical conditions (Dove and Carpenter, 2008, p. 8). Existing ethnographic literature provides vast materials proving different ontological approaches of indigenous communities to their natural surroundings (Taussig, 1980; Salas Carreño, 2017).

Scholars such as Escobar and Peet and Watts argue that if in a given society the dominating model of development is the product of existing power relations, social movements can seek a new type of social relations and formulate alternative models of development, including an 'alternative to' development. The locally oriented and territorially conscious social movements are the bearers of distinct knowledges and practices, values and visions that can serve as an epistemological fundament to build a counter power challenging dominating development models. For Escobar (1995), those social movements engaged in the defence of their territories and natural resources are most promising, because territory is the indispensable spatial-political dimension of any social project that implicates power. Moreover, territory as politicised space of human everyday existence and interaction with nature is directly connected to the question of ways of living that inform understanding of development. Here, the notions of locality and politics of place are crucial. In academic debate (see Lisocka-Jaegermann, chapter 8, this volume) these elements are stressed as constitutive for the enactment of new narratives and concepts about development, because of people's everyday experiences and locally evolved knowledges, gathered and constructed in specific ecological, geographical (spatial) and economic conditions and limits. Locally conscious populations are seen as better equipped to deal with everyday problems related to the social and economic reproduction of community and are expected to have more balanced and place-specific set of visions, values and techniques fitting concrete local circumstances. Thus, as Lisocka-Jaegermann argues in this volume, local communities 'engage in politics in ways that stem from their specific social, cultural and economic place-based experiences and problems'. Furthermore, the 'politics of place' does not mean the rejection of or defence against modernity and global capital and top-down imposed forms of development. Instead it is about the possibility of choice and the rejection of hegemonic social, economic and cultural processes in favour of building community place-based political agendas on the basis of their own experiences, knowledge, values and needs and based on their own protagonism (see Lisocka-Jaegermann, chapter 8, this volume).

However, critical to avoiding the stereotyping of local knowledges and indigenous ontologies, the focus on locality and place should never be understand as the reduction to some artificially constructed opposition

between mutually excluding elements such as modernity and tradition or development and preservation. The democratisation of access to new digital tools, globalised communication and increasing accessibility to technology worldwide, is facilitating local communities in the dissemination of local knowledge and values, and counterhegemonic views and interpretations, as they seek to counteract top-down imposed lectures of local development resources. One of the most promising examples of applying new technologies to local counterhegemonic struggles in social-environmental conflicts is through neogeography and the construction of electronic maps that serve as vehicles to promote local knowledges and perspectives. Access to technologically advanced but easily operational digital tools are challenging the monopoly of Western centres which have traditionally controlled processes of knowledge production and facilitated the dominance of eurocentric discourses on the environment. As Specht demonstrates in this volume, the growing access of subaltern groups involved in social struggle to these new digital tools should be considered not only as an improvement of methods of communication or data processing but in terms of power redistribution. Bebbington argues that social-environmental conflicts over natural resource development and extractivism in Latin America are a 'sort of competition between opposed geographic projects' (2011b, pp. 54–5) in the sense of different kinds of logic of territory and resource management and spatial policy. On the one hand, a project that entails long term territorial management and successive changes, introduced and controlled by the local population which operate within frames of local history and tradition; and on the other hand, a project that implies drastic territorial changes and devastation of spatial understanding, going against the own political and economic systems of the local population (Bebbington, 2011b).

The core dimension of these conflicts is not about natural resources as such, but that 'the meaning and the use of a certain territory by a specific group occurs to the detriment of the meanings and uses that other social groups may employ for assuring their social and environmental reproduction' (Zhouri, 2014, p. 7). Such conflicts should be seen as wars of visions and values, where the dominating conceptions are imposed upon local visions of environment and development. They involve the question of 'production of territory' (Bebbington, 2011b, p. 63) - a strictly political process that encompasses disputes about the prevailing type of relations between the community and its environment and resources, which is the essence of development. This encompasses the following fundamental questions: who should govern territory and how? What goals and priorities should prevail? What responds directly to the question whom interests would dominate over others? And what type of relationship should a territory have with its surroundings? (See Coates

in this volume (chapter 6) regarding this dimension of social-environmental conflicts.)

Therefore, social-environment conflicts also confront more fundamental issues such as transparency, justice and dignity, citizenship, political subjectivity and communal sovereignty in issues directly related to the existence and reproduction of local populations (Bebbington, 2011a; Powęska, 2017). The central question of self-determination and true democracy in deciding own model of development is what links the themes of natural resource conflicts and the human rights agenda (Powęska, 2017). The claim for direct democracy and local communities' political empowerment is shown by alternative development theorists as a critical element in territorially based alternatives (Friedmann, 1992, p. vii). For Veltmeyer, the competence of local people for sovereign decision-making and their political autonomy regarding development means that not only should 'endogenous development' respond to local realities and present holistic treatment of social, economic, cultural and environmental factors; going further, it implies that local communities should have control of development activities and shape their development strategy according to their own aspirations (1996, pp. 22–5).

The question of democracy and self-determination regarding development is also crucial in the context of the relationship of indigenous peoples and natural environment. Despite the essential role the environment played in social-environmental conflicts, we should be cautious not to reduce civil society's agenda to the preservation of Nature. The protests are never only or simply against environmental destruction and Nature is never conceived as an aim and value in itself. Such protests also constitute a mechanism to recover control over the most fundamental aspects of communal sovereignty – decision-making related to own territory of which natural resources are essential part (Damonte Valencia, 2011, p. 190). Neither indigenous peoples nor other local groups 'reject all natural resource development; rather, they seek methods that respect their rights, that are consensual and from which they can benefit fairly' (Lennox, 2012, p. 11).

Appealing to the principles of Nature conservation has become a discursive and symbolic tool, employed in the struggle to achieve other goals, since many social movements shape their discursive strategies adjusting them to the expectations and imagination of NGOs and international organisations (Hufty and Bottazzi, 2007; Molina Argandoña, 2011; Damonte Valencia, 2011). This can be seen as similar to the strategic adoption of the term 'territory' by indigenous peoples and their organisations in their operational political discourse while claiming rights for their collectivities to be recognised by addressed states. Even if particular indigenous groups do not share the same abstract categories and in their everyday life employ culturally very different

and far more complex understanding of relationships with their spatial surroundings, the internationally accepted term is widely used and referred to for strategic political reasons. It can however result in the domestication and disarmament of more inconvenient consequences of indigenous challenge to state power (Bryan, 2012; Hale, 2011).

It is important to note that these examples of strategic adaptation to politically charged categories, terms and discourses reflect the unequal power relations between global forces, national states, and local non-state actors. Given the already enormous and still growing importance of natural preservation in the international public context, the environmental concerns and their employment in wider indigenous narratives serve as a tool of defence for the vulnerable groups that take the unprivileged side in the power asymmetry. However, as the content and meaning of those symbolic and discursive tools are beyond local communities' control, their eventual negotiating position always depends on greater outside forces that can convert apparently emancipatory narratives into a trap. Consequently, the defence of indigenous rights through their discursive association with ecological preservation has a double end and may lead to indigenous peoples being perceived as part of Nature, equally denying indigenous peoples subjectivity as well as their right to self-determination and the autonomy to decide their own development (Assies and Hoekema, 2000, p. 6). Indigenous peoples are often imagined by policymakers (states, NGOs, international institutions) as organic 'guardians of biodiversity' and closely linked to Nature (Hufty and Bottazzi, 2007, p. 180; Radcliffe, 2016, p. 161). This creates a paradox in which, on the one hand the supralocal actors (organisations, states, NGOs etc.) share positive beliefs about indigenous ontologies and their models of resource management, but on the other hand, by stereotyping and artificially binding indigeneity with environmental conservation, policymakers monopolise definitions of environmental policies, ignoring real indigenous needs and interests while denying their subjectivity. This results in the reproduction of colonial relations and the subjugation of the interests and rights of local groups in the name of ecology (Radcliffe, 2016, p. 162). An excellent example of this problem is the global climate change initiative Reducing Emissions from Deforestation and Forest Degradation (REDD+) as discussed by Raftopoulos in this volume. Although REDD+ has the potential to generate co-benefits such as poverty alleviation and biodiversity conservation (Scriven, 2012), it has also proved highly controversial, denying indigenous peoples' demands for collective self-determination and ignoring local customary models of forest exploitation. The Ecuadorian Yasuní-ITT initiative is another example of outside actors manipulating indigenous and environmental interests, raising 'key issues about the differential valuing of western and indigenous epistemologies in environmental policymaking'

(Radcliffe, 2016, p. 172). Despite its intention of protecting vast areas rich in biodiversity from oil exploitation, the Yasuní-ITT initiative was criticised by local indigenous peoples for trespassing on their ancestral territories, imposing a quasi-colonial land management programme on indigenous communities without their consultation and for violating their rights to self-determination and autonomous decision-making (Radcliffe, 2016, pp. 172–3).

In regards to *buen vivir*, the academic literature offers a romanticised, abstract review of supposedly indigenous visions and principles while overwhelmingly failing to address the relationship of these constructs with their practical and viable application in existing economies (Medina, 2001; Farah and Vasapollo, 2011; Arkonada, 2012). Gudynas suggests that 'there is strong evidence that *suma qamaña* [aymara expression for *buen vivir*] is not found in the everyday life of (…) rural communities, but that the terms were a recent creation' (2011, p. 444). While challenging the abstract character of *buen vivir* concept, Gudynas points out that it is in fact rather vague in content and can have diverse interpretations within different sociopolitical contexts (2015, p. 201–2). Therefore, simply identifying similar, often intellectually manipulated concepts with apparently ancient indigenous philosophy supposedly always opposed to development and growth should be avoided. Such understanding of *buen vivir* as a de-contextualised, imagined 'traditional' way of thinking may be a risky generalisation and essentialisation of the original cultural values of indigenous peoples (Demmer and Hummel, 2017; Portugal Mollinedo, 2011). Moreover, the counter-narratives associated with indigenous ancestral philosophy may also be subject to the instrumental domestication and re-appropriation of indigeneity for conjunctural political-economic goals of states and global market. As Powęska discusses in this volume (chapter 2), this is particularly valid in case of the progressive and supposedly pro-indigenous governments of Ecuador and Bolivia, where the state manipulates discourses about indigeneity and the environment in order to align indigenous cosmovisions and an indigenous rights framework with the state's developmental interests and extractivist priorities.

Therefore, indigeneity and environmental discourses are generally associated with emancipatory struggles against the states powers and globalising market forces, the ambiguous and dubious nature of discursive and symbolic tools should be kept in mind. Indigeneity, especially in an environmentally concerned fashion, is a disputed field of political meaning, where different forces come to the fore. The struggles over meaning are embedded in asymmetrical power relations, whereas state actors can equally participate and dispute indigenous narratives for their own ends, emptying them from emancipatory potential. Thus, social movements resistance should be characterised as ambiguous rather than universally challenging extractivism, as the employment of pro-environmental

narratives is often more a result of power relations and strategic adaptation to globally dominating themes and not necessarily their original and primary concern. In those territories, where resources and other objective elements that constitute the physical basis for development are situated, communities are subject to interwoven global and local influences. Swyngedouw coins these processes as 'glocal' because the communal sphere is never autonomous to construct local development strategies, but instead is radically conditioned and limited by external forces and circumstances. However, it should be noted that external influences (political/institutional, economic, and cultural/discursive) are also mediated by local society, culture, perceptions and values, as well as power relations, interests and internal political structures (Swyngedouw, 1997). As a consequence of this complex interplay, development visions designed by local people not only draw on territory and resources and culture and traditions, but also interact constantly with national and international institutions and their policies. All these elements and levels form a 'development repertoire' to use. Extra local regulations and influences (including rights, state policy, outside political/institutional structures) shape the ability of local communities to follow their 'alternative paths of development' (Ray, 1999). However, as shown by Raftopoulos in chapter 3 of this volume, in the interplay between local and global, it is the visions and interests of the latter that prevail over local people's right to self-determine their own development models.

Resource wars and human rights

The environment has become a new arena for human rights as an increased demand for natural resources has sparked conflicts between local communities and the state, as governments throughout the region push through major development projects without integrating economic, social and cultural rights. Current development policy is shaping protests in the region and has ultimately led to the incorporation of human rights into these protests and the opening up of a new political space for indigenous peoples and minority groups to further their call for respect of their internationally recognised rights. Moreover, as Veltmeyer and Petras argue, the social and political struggles surrounding extractivism have given rise to a new class struggle predominately in rural areas. This has created a new proletariat composed of waged workers and miners, indigenous communities, peasant farmer communities and semi-proletarianised rural landless workers who form the backbone of the forces of resistance against the 'workings of capitalism and imperialism in the economic interests of the dominant class' (2014, p. 46). These forces of resistance are drawn together and united around the negative impact of extractive industries, notions of development, territorial sovereignty and the defence of the commons and biodiversity.

This new cycle of protests has opened up new political spaces for human rights based resistance by indigenous and peasant communities, social-environmental activists and social movements. These groups are at the forefront of the forces of resistance against resource extraction in Latin America and are increasingly looking towards human rights institutions, discourses and practices to provide a means to contest the unjust capitalist structures that are causing the social-ecological destruction of the planet (Raftopoulos, 2017). For many indigenous movements, the international human rights system has become a crucial channel to demand attention from their respective states and motivate Latin American governments to recognise human and particularly indigenous rights in the framework of their constitutions and national legislations (Lightfoot, 2016; Burger, 2016; Sieder, 2016; Brysk, 2000). Moreover, with current international law on environmental management by sovereign states limited to managing the environment in a manner that the misuse of natural resources does not disadvantage other states, the international human rights framework has become increasingly important in the protection of the environment. The potential of human rights to act as 'language of protest' and a 'platform for change' (Gearty, 2010, p. 7) has contributed to the increasing transnationalisation of human rights discourses in the last two decades and led to the development of transnational human rights networks that bring together ordinary social actors in their pursuit against similar claims of injustice. Furthermore, the use of human rights has become an important means of exposing both the ecological and social destruction that accompanies many extractivist projects and has ultimately broadened the frame of both action and discourse surrounding social-environmental conflicts while simultaneously increasing the attention focused on human rights and the rights of nature (Raftopoulos, 2017).

In the last two decades, human rights law has undergone a rapid greening whereby the focus has been on reinterpreting universally recognised rights, leading to a convergence between human rights and environmental protection. Environmental integrity is being recast as a mechanism for the enforcement of human rights, 'functioning as sine qua non conditions of existence for the realization of much of the human rights agenda' (Gearty, 2010, p. 13). This has led to the emergence of three theoretical approaches to the relationship between human rights and the environment. Firstly, the environment is seen as a precondition to the enjoyment of human rights. Secondly, human rights can be used as a tool to address environmental issues from both a procedural and substantive stance. Lastly, human rights and the environment have increasingly been grouped together as the conditions for sustainable development (Boyle, 2012, p. 617). The idea that people are entitled to the right to a decent environment has gained traction over recent years as a consequence of the broadening of economic and social rights to incorporate elements of

environmental protection, evident in rights treaties such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic and Social and Cultural Rights (ICESCR), and the United Nations Declaration on the rights of Indigenous Peoples (UNDRIP) (Boyle, 2012). While it is increasingly recognised within international law that environment degradation can deprive human rights and that 'mere recognition of such deprivations is not enough to promote and secure a healthy environment', a non-derivative human right to the environment has yet to be recognised (Bosselmann, 2015, p. 531).

A report published by the Inter-American Commission on Human Rights in 2015, while stating that states have the freedom to exploit their natural resources through concessions and private or public investments, also importantly emphasised that these activities should not be executed at the expense of human rights and justice. Along with this increasing recognition of the linkage between human rights and extractivism, questions are being raised within human rights law regarding states extraterritorial obligations. Transnational corporations, which are often unsupervised and operate out of the control of the host country, have been complicit in human rights violations in those areas where large mineral deposits and energy sources are located, harming both the local population and the environment. However, human rights defenders in Latin America have repeatedly reported the deficiencies found in current legal, institutional and political frameworks and called for transnational corporations to be held accountable for their actions. The concept of corporate social responsibility (CSR) has also been widely promoted by the UN and in 2011 the United Nations Human Rights Council adopted the Guiding Principles for Business and Human Rights. As the first corporate human rights responsibility initiative to be endorsed by the UN, it set out three guiding principles for preventing and addressing the risk of adverse human rights impacts linked to business activity. These Guiding Principles included: states' existing obligations to respect, protect and fulfil human rights and fundamental freedoms; the role of business enterprises as specialised organs of society performing specialised functions, required to comply with all applicable laws and to respect human rights; and the need for rights and obligations to be matched to appropriate and effective remedies when breached.

While it has long been recognised that it is the state's responsibility to protect and promote human rights in its territories, it is also increasingly acknowledged that they have a duty to adopt an appropriate and effective regulatory framework in order to prevent human rights abuses. As García-Falcés notes, for effective enforcement of [indigenous peoples] rights the 'state cannot treat this problem alone, but its role is at the same time crucial to guarantee [international] agreements in the domestic level. The state is the

entity which should put into practice (...) the recognition of indigenous peoples' rights' (2005, p. 52). Therefore, while human rights may have been strengthened on an international level, they can only be realised if individual states guarantee and enforce human rights agreements domestically. In addition to enforcing international human rights standards, the state also has an important role to play as a 'meta-mediator' where it 'acts as manager of the national territory, including natural resources, at the same time as it acts also as mediator of interaction between different sectors of society - firms and affected peoples - and the natural resources of the country' (Zhouri, 2014, p. 9). States have an obligation to monitor and supervise extraction, exploitation and development activities, to guarantee mechanisms of effective participation and access to information, prevent illegal activities and forms of violence, as well as to guarantee access to justice through investigation, punishment and adequate reparations for violations of human rights committed under these circumstances. However, the persistent problem of the 'implementation gap' remains (Stavenhagen, 2006) and a number of barriers, such as differences in legislative and judicial approaches, make it very difficult to achieve justice across jurisdictions (IACHR, 2015). Krysińska-Kałużna in this volume (chapter 4) shows how the absence or lack of commitment of the state (or simple failure in effective law enforcement) greatly influences the escalation of human rights violation. Moreover, the failure of the government to protect indigenous peoples or resolve disputes over natural resource development, despite indigenous communities' willingness to negotiate their rights peacefully and in accordance to the legal frames and expectations imposed by states, is contributing to the escalating violence.

Despite the adoption of a UN resolution requiring states to ensure the rights and safety of human rights defenders, it has become increasingly clearer that states are not doing enough to protect those lives at risk from harassment and violence and bring those responsible to justice. Furthermore, in many cases the state and security services are perpetuating violence against those opposed to extractivist activities and leading a campaign to vilify and stigmatise indigenous groups and social movements in an attempt to build a framework of acceptance for curtailing human rights in the name of development. The contradictory roles played by the state in extractivism are apparent throughout Latin America, particularly in those countries with so-called progressive governments (Veltmeyer and Petras, 2014; Machado and Zibechi, 2016; Gandarillas Gonzáles, 2014). Consequently, Latin America has become one of the most dangerous places for human rights activists and environmentalists in the world. The murder of Berta Cáceres, a well-known activist for indigenous rights, human rights and environmental protection in Honduras in March 2016 exposed the level of violence that often accompanies mega-projects

and resource extraction in Latin America as indigenous communities and governments clash over the use and control of natural resources and land. Speaking ahead of World Environment Day 2016, The UN Special Rapporteur on human rights and the environment, John Knox, along with the UN Special Rapporteur on the situation of human rights defenders, Michel Forst, and the UN Special Rapporteur on the rights of indigenous people, Victoria Tauli Corpuz, issued a joint statement urging governments to protect environmental rights defenders. However, because of the commitment of Latin American governments to pursuing and intensifying extractivism, the role of the state is focused not on acting as a guarantor of human rights but rather protecting and facilitating their own economic interests. Increasingly, the state is acting as a guarantor for legal and public order and providing security for natural resource investments (Svampa and Antonelli, 2009, p. 31). As Morley demonstrates in this volume, environmental protection, the rights of nature and human rights are continuously sidelined in the name of economic development, even in those countries with a more progressive development agenda. Latin American states are acting as an active promoter of extractivism, allying themselves with transnational capital to the detriment of its own citizens. Governments across the region are criminalising social protests through the use of repressive legislation, and deterring or curtailing communities and activists from political mobilisation through the use of violence, kidnapping, torture, harassment and threats. However, the active involvement of states in securing extractivist activities is justified by governments as being in 'the interest of the nation' or 'majority', or 'public interest' (Lennox, 2012).

The dilemma between exploiting natural resources for socio-economic development and defending both human and environmental rights represents a major challenge for Latin American countries. The struggle over the expansion of the extractivist and (neo)-extractivist development models, the absence of participatory democracy, and the criminalisation of resistance have led to the rupture between the state and social movements, resulting in the growth in social-environmental conflicts throughout the continent. This book addresses the dilemmas of development in today's Latin America, marked by the pursuit of economic growth, technological improvement and reduction of poverty on the one hand, and growing concerns about the environment, natural resource preservation and human rights on the other. It examines the roles of contemporary states in natural resource development, ranging from acting as a promotor of extractive industries and an ally of transnational capital, through to being rights brokers and agents of law enforcement and institutional order, to defending and guaranteeing the rights and interests of society. Furthermore, attention is paid to how the current development model is contested by non-state actors as well as the interaction between the local and the global.

By focusing on the different, though interrelated levels of interaction (local, national, transnational), as well as actors and roles, the book contemplates the complex panorama of competing visions, concepts and interests grounded in mutual influences and interdependencies that is shaping the contemporary arena of social-environmental conflicts in Latin America.

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2. Indigenous rights in the era of 'indigenous state': how interethnic conflicts and state appropriation of the indigenous agenda hinder the challenge to extractivism in Bolivia

Radosław Powęska

Evo Morales, wearing his characteristic ethnic suit and decorated with colourful wreaths, pours liquid from a vessel and speaks into the microphone: '…and with this offering to Pachamama [Mother Earth] I declare inaugurated this open-pit mine'. This humorous graphic made by Spanish illustrator Emma Gascó[1] perfectly demonstrates the contradictions of Bolivian economic policy under Morales. The election of Evo Morales as Bolivia's first indigenous president has launched the process of inner decolonisation of the state, becoming a revolutionary promise for the native majority of the Bolivian population. Bolivia has incorporated one of the most advanced and far-reaching set of indigenous rights in Latin America, including the right to self-determination and self-government through territorial autonomies, the right to prior consultation and to self-determined development. The indigenous right to freely pursue their economic, social and cultural development is inherent from their right to self-determination. However, despite Morales' reputation as defender of Mother Earth, the Bolivian state's focus on the extractivist model of economic development (natural resource exploitation as a source of state revenues and supply for social redistribution through ambitious social programmes) puts in question the authenticity of its apparently pro-indigenous agenda. The extractivism-oriented development priorities of the state quickly contradicted the official policy of *vivir bien*, leading to regular devastations of the environment.

The project of decolonisation became problematic for the policy of nationalisation of resources. The expansion of hydrocarbon exploitation and mining, as well as the development of infrastructure and energy projects, have progressed at the expense of the most fundamental indigenous rights. The Bolivian state's 'pragmatic retreat' undermines indigenous rights to territorial and resource control, especially through prior consultation, resulting in the

1 The illustration is available in Cúneo, 2011.

denial of their right to autonomously decide their own model of development and determine their relationship with the environment. Thus, the promise of the plurinational state has been converted into a mere ornament, an empty rhetoric that covers actual political economic practice. Bolivia's economic dependence on fossil fuels revenues meant that despite the considerable drop in global resource prices few years ago, the country intensified its extractivist policies, adopting laws and decrees to encourage foreign investment and reduce obstacles stemming from indigenous rights.

In February 2017, the Inter-American Court of Human Rights (IACHR) called for the Bolivian government to explain the growing controversies surrounding fossil fuel exploitation in the Amazon in the department of La Paz. For several months, it was known that during the preliminary phases of exploration, the cooperative of Bolivian state company YPFB and the Chinese BGP had come across an uncontacted indigenous people but had failed to stop their operations, threatening the material survival of the group previously remaining in isolation (Monasterio Mercado, 2017). By doing so, the Bolivian state violated its own constitution that incorporates the rights of indigenous peoples in voluntary isolation to maintain such conditions, to have protected occupied territory and to be protected and respected in their way of living (art. 31) (Jiménez, 2017). The event symbolically illustrates the dramatic pace of the Bolivian extractivist expansion and the real face of the Plurinational State. Moreover, the Bolivian state not only failed to take relevant measures to protect the endangered people, but the government also denied that it had been informed of the problem in 2016 and showed no concern over the matter (*Survival*, 2016; Jiménez, 2017).

In this chapter I draw on the Bolivian case to show that nothing can guarantee and ensure the effective realisation of indigenous rights in practice, when confronted with complicated nuances of internal politics and development dilemmas. More importantly, no serious improvement in indigenous peoples' rights is possible without the sincere and compromised engagement of the state. In the case of contemporary Bolivia, the problem with the genuine implementation of indigenous rights is even more difficult because of the state's appropriation of the indigenous agenda and a state-managed official indigenous discourse that tries to mask the existing contradictions and conflicts. I maintain that the visible discrepancies between pro-indigenous rhetoric on the one hand, and the acceleration of extractivist logic on the other, put the Bolivian state apparatus in dramatic need of managing official discourse with the very particular end of legitimisation of the current policy and its portrayal as fully coherent with the idealistic principles derived from indigenous identity. No matter if the government is rhetorically pro-indigenous and itself has its roots in organic indigenous movements, maintaining strategic alliance with

chosen organisations. Due to its organic ties to social movements, the Bolivian government claims to represent the legitimate incarnation of indigenous power and be the natural advocate of indigenous peoples' interests. However, the Bolivian case demonstrates that drawing on these ties to civil society's activism, the government, as the most powerful part of the state's apparatus, appropriates the indigenous agenda as part of state ideology and discursively transforms it to fit into its own development and economic priorities. I argue that the indigenous rights and indigenous agenda are being deformed, manipulated and domesticated by the 'indigenous state', hindering the ability of peoples affected by extractivism to defend their rights.

Importantly, in the process of re-elaboration of the discursive framework to serve its policy, the state can count on existing conflicts and divisions between various indigenous peoples. Although the global audience likes to see indigenous peoples as unified by similar historical situation, traditions, values and lifestyles, as well as united in their struggle for recognition, they are in fact very far from united in their struggle against the state's extractivism in Bolivia. Yet soon after Morales ascent to presidency and the launch of the plurinational state project, numerous interethnic conflicts over territories and resources came to the fore, eventually ending the era of anti-neoliberal and anticolonial alliances and a great, united Bolivian indigenous movement.[2] The discrepancies in interests between various indigenous groups fuel different approaches to the theme of indigenous rights and the government's development policy. Crucially, resource wealth is concentrated in the lowlands where there are the fewest indigenous peoples.

The question of state power underlies my analysis. Scholars studying recent Latin American pink tide governments' policies have already observed that in cases when the process of change is being developed from the top down, using state apparatus, the state can be as much an instrument of revolutionary process as an impediment of genuine profound transformation of power relations and structures of domination. The state power and its institutions operate with their own logic and interests that can seriously limit the ability to respond to social movements' more radical, counter-hegemonic stance (Martínez et al., 2015). Elsewhere, I have argued that the state remains a crucial element in the implementation of the indigenous peoples' rights and any social-environmental conflicts:

> We face a fundamental paradox – even if indigenous rights are being strengthened through international activism on the global level, their

2 In fact, the indigenous peoples and their organisations were never united. Rather the opposite, the always-present conflicts of interests, over territories, resources, representation and political influences are typical for the history of contemporary indigenous activism. The apparent wide coalitions of indigenous movements are rather products of strategic political decisions and calculations. On the Bolivian case see, for example, Powęska, 2013.

> implementation strictly depends on local circumstances … although indigenous peoples indeed defy states' authority and power, states still hold the best cards in dealing with this challenge. The State preserves all the prerogatives for shaping the legal framework regulating territorial and resources control, their use and exploitation, as well as about the effective implementation of domestic and international rights. Despite some academic optimism about Indigenous movements activism on the international fora and its effect on the reconstruction of power relations within Latin American states, there remains the ever-present problem of 'implementation gap' … Any international legal provision will remain a dead letter if it is not put into operation by the state. Even in the case of an international courts unfavourable judgement to state interests, it is the state that has the last word regarding its compliance (Powęska, 2017, pp. 442–3).

I have shown that the Bolivian state has a crucial interest in hindering the genuine implementation of indigenous rights because of the strategic role of natural resource exploitation for the national economy, but also for the reproduction of political power based upon the traditional patterns of the Bolivian political culture – paternalist-clientelist state-society relations fuelled by state-controlled resource revenues (Powęska, 2017).

Among its tools for effective political strategy to contend the challenging potential of indigenous peoples, the state employs management of indigenous rights discourse, domesticated and incorporated into the state's ideology. There is already a great tradition of theoretical discussion of the role of discourse in the processes of power reproduction or constructing counter-power movements. For Foucault, the establishment and reproduction of power is possible through the discourses that transmit and instil the 'adequate' manner of seeing and understanding social reality, building 'unquestionable' norms (Foucault, 2005). Following Foucault, discourses have the ability to generate relations between 'institutions, economic and social processes, forms of behaviour, systems of norms, techniques, types of classification and ways of characterisation' (Foucault, 2006, pp. 73–4). Bourdieu proposes the concept of symbolic violence to describe a mechanism of imposing perceptions, beliefs and values as legitimate and natural, dissimulating power relations upon which this symbolic imposition is based. The symbolic violence is exercised by those who culturally dominate others and the communication/discourse plays a fundamental role in this process (Bourdieu, 1977; Bourdieu and Wacquant, 2001). Similar way of thinking can be found in the Gramscian concept of hegemony, built upon the imposed 'truths' that serve the reproduction of the position and interests of dominating forces, 'truths' accepted as objective ones by the subaltern groups (Gramsci, 1971). Thus, discourses are crucial mechanisms for the construction of power legitimacy. For Lipset, '[l]egitimacy involves the capacity of the system to engender and maintain the belief that

the existing political institutions are the most appropriate ones for the society' (Lipset, 1983, p. 64).

The discursive processes can be oppressive but they can be also mechanisms of resistance or the construction of alternative beliefs and values (Fraser, 1990). For Laclau and Mouffe, the struggle for power is nothing more but a struggle over the re-appropriation of the process of discursive reproduction (Laclau and Mouffe, 1985). Thus, the indigenous and environmental discourses can be seen as a field of political meanings, disputed by different forces and actors, embedded in unequal power relations. In this chapter I concentrate on the state side of this struggle. For this analysis, I adopt Bob Jessop's approach to state power as 'a complex social relation that reflects the changing balance of social forces in a determinate conjuncture'; this relation is mediated through the instrumentality of juridical-political institutions, political organisations and state capacities. Crucially, state apparatus may privilege some actors, identities and strategies over others. State structures have differential impact on the ability of particular political/social forces to pursue their 'interests and strategies in specific contexts through their control over and/or (in)direct access to these state capacities' (Jessop, 2009, pp. 376–8).

In this approach, the asymmetries of power in a society play a pivotal role. The state system is seen as the site of competition of interests of different groups differently structurally oriented toward state power. It is clear enough in Jessop's state apparatus definition 'as a distinct ensemble of institutions and organizations whose socially accepted function is to define and enforce collectively binding decisions on a given population in the name of their "common interest" or "general will"' (Jessop, 1990, p. 341). But '[w]hatever the political rhetoric of the "common interest" or "general will" might suggest, these are always "illusory" insofar as attempts to define them occur on a strategically selective terrain and involves the differential articulation and aggregation of interests, opinions, and values. Indeed, the common interest or general will is always asymmetrical, marginalizing or defining some interests at the same time as it privileges other. There is never a general interest that embraces all possible particular interests (...) a key statal task is to (...) [manage] contradictions, crisis-tendencies, and conflicts to the benefit of those fully included in the "general interest" at the expense of those more or less excluded from it' (Jessop, 2009, p. 373).

Such a theoretical approach to state helps to explain why the Bolivian state, controlled by a supposedly pro-indigenous government, is more sensitive to the interests and expectations of some chosen indigenous groups that are structurally better situated in the system of power and thus more influential on the state, while at the same time the same pro-indigenous state and its

government ignores the rights and interests of weaker and more vulnerable indigenous groups.

Power relations and indigenous peoples as guardians of Nature

The power relations operating on the interrelated local, national and global levels, as well as different structural situation of particular indigenous groups towards state power in Bolivia and finally, last but not least, the vulnerability of particular indigenous groups to extractive enterprises in their territories, are all important factors in indigenous-state relations. They all form a set of conditions determining different orientation towards the state's extractivist policy, as well as the very theme of indigenous rights and environmental issues, but also discourses and forms of struggle.

First of all, the indigenous peoples 'do not reject all natural resource development; rather, they seek methods that respect their rights, that are consensual and from which they can benefit fairly' (Lennox, 2012, p. 11). The main concerns include also the ways in which projects are undertaken, questions of transparency, citizenship and democracy, and problem of disregarding communities' interests (Bebbigton, 2011, pp. 25, 28). Yet during the drafting of the new Bolivian constitution in 2006–7, many indigenous organisations demanded the right of indigenous communities to own and control all the natural resources, including non-renewable ones and subsoil. Such claims were presented to local populations during constitutional workshops and were announced in the congress of the biggest indigenous-peasant organisation, Confederación Sindical Única de Trabajadores Campesinos de Bolivia (CSUTCB), although in the end this movement, a strategic ally of the government, did not include the claims in its constitutional proposal (CSUTCB, 2006; 2008, p. 55). The important organisation of traditional Andean communities, Consejo Nacional de Ayllus y Markas del Qullasuyu (CONAMAQ), demanded in its constitutional project that indigenous autonomies have the right to 'property and sustainable administration of renewable and non-renewable natural resources' (CONAMAQ, 2007, pp. 12, 24–5). The Asamblea del Pueblo Guaraní (APG) also claimed to own and the right to administer the indigenous peoples' soil and subsoil. The Central de Pueblos Étnicos Moxeños del Beni (CPEMB) claimed that 'the indigenous peoples are owners of the renewable and non-renewable resources in their territories and have a right to administer, use, and sustainable control of the resources (Zegada, Tórrez and Salinas, 2007, pp. 65, 68–9). Finally, the coalition of the nine biggest indigenous peoples organisations in Bolivia prepared a compromised constitutional project reflecting the different interests

of the movements. In that document the movements demanded indigenous peoples' rights to 'participate in the co-administration of the non-renewable natural resources with the national government', to 'participate in direct, real and effective form in administration, management, decision-making and benefits coming from the use of natural resources (...) found in their territories' and claimed that 'indigenous peoples can be partners in forming companies' undertaking resource exploitation' (Pacto de Unidad, 2007, pp. 19, 21). Given the economic and political interests of the state, these were utopian claims.

The question of environment is without doubt an essential issue in indigenous struggles. However, Damonte Valencia stresses that 'the protest of communities against environmental destruction is, in a certain way, a response to and about environmental destruction, but the social-environmental struggles have converted also into mechanisms to gain control about fundamental aspects of communal sovereignty'. The communities 'understand the environment not only as a fundamental part of their own social life, but also, in itself, as a political tool to employ in conflict with opposing actors and to achieve support of external agents and global auditory' (Damonte Valencia, 2011, p. 192). The indigenous protests against extractivism, he concludes, are 'dynamic forms of struggle against subordination that operate inside the power structures'; they are not necessarily 'ecologist' nor 'autonomous' 'but conscious political responses shaped by decades of struggles and negotiations with and against the State' (Damonte Valencia, 2011, p. 192). To make it clearer, appealing to ecological claims of environmental protection has become a discursive tool, employed by indigenous movements to achieve their goals, not necessarily or directly related to the protection of the environment. The movements adjust their discursive strategies to the imagination and expectations of the global public and supporting organisations (Ramos, 1994; Hufty and Bottazzi, 2007; Molina Argandoña, 2011, pp. 78, 84; Trentini and Soroche, 2016, p. 143). What the indigenous groups intend to achieve with the use of ecological discourses as a discursive strategy is, through gaining the attention of the domestic and international public, and/or establishing political alliances, to pressure the state to respond to globally growing environmental concerns, and to gain protection from decisions and actions harmful to their interests.

Although indigenous activism has successfully incorporated ecology into its 'repertoires of contention', there is also a paradoxical or 'swindling' side of environmentally oriented articulation of struggles. Assies and Hoekema warn that:

> the recent 'greening' of indigenous movements' discourse, by which indigenous peoples are represented as natural born ecologists (...) involves a dubious play on ascription and identification. While linking up with transnational activism around environmental issues brought new opportunities for indigenous peoples' movements and provided them with

> new leverage, the resultant tendency to equate Indian rights with ecological preservation may entail patronization and the subordination of political identity to an imposed view of Indians as Nature (Assies and Hoekema, 2000, p. 6).

Without denying that generally indigenous peoples have culturally specific understanding of and relations to their natural environment, and that there is a fundamental difference between their biocultural paradigm and the capitalist growth paradigm, I stress that the indigenous peoples should be themselves the only subjects defining their relations to land and environment, without imposing on them our visions and expectations. The prospects for their genuine self-determination and self-determined development require the avoidance of artificial attachment of indigenous rights to the condition of conservation of 'traditional' culture and relations to the environment, as the preservationist approach to indigenous rights can actually narrow available 'development repertoires'. As Rudnicki accurately remarks, the approach based on cultural essentialism and the imagined idealised indigenous lifestyle threatens to limit native peoples' economic, political and territorial autonomy (Rudnicki, 2012, pp. 44, 62). Therefore, there is a need to 'support solutions that can bring more and not less autonomy, including within particular indigenous groups (...) and to oppose the assumption, that the indigenous peoples should enjoy the recognition of their substantial rights only because they are bearers of a culture worthy to be saved for the good of mankind' (Rudnicki, 2012, p. 63).

Rudnicki points out that the generalised belief in the so-called 'special relation to the land' and 'traditional way of living' of indigenous peoples treated as 'Guardians of Nature' creates a risk that the states would forbid them to use lands or resources in a way that differs from the state's view of 'traditional' use or even refuse to recognise their status as indigenous peoples because of the lack of supposed 'sustainable' management of land (Rudnicki, 2012, pp. 57–61). There are existing examples of this threat from elsewhere in Latin America. In Colombia, the Yanacona people in San Agustín department were forbidden to use motorised vehicles on the road belonging to the terrain of the San Agustín Archaeological Park, though this area is also a part of Yanacona's traditional territory. The state authorities declared that further use of the road would damage a 'millenarian landscape' of the zone (Cuenca, 2015). In the north-western Mexican state of Baja California, federal authorities banned Cucatá indigenous people from fishing in their traditional territories under the excuse that their fishing techniques and goals are not sustainable and therefore not properly indigenous anymore, which meant those people did not deserve special rights to territory and resource use (Navarro, Bravo Espinoza and López Sagástegui, 2013, pp. 138–48).

According to Assies and Hoekema, '[t]his type of recognition of indigenous territories [in exchange for their dwellers being environmental guardians, RP] may well sustain existing relations of inequality. It makes indigenous people carry the weight of problems generated elsewhere which, therefore, should be solved in other ways' (Hoekema and Assies, 2000, p. 255). There is an urgent need for 'sincere discussion about inequalities that underlie indigenous peoples' problems and that incite their claims', because 'actions towards protection of groups instead of changing basic structures of power against which these groups seek protection, can result pointless in the long term, and even to some extent harmful' (Rudnicki, 2012, pp. 62–3).

The relations of inequality and power asymmetry are key to understanding the problem of the ecologist discursive trap. Indigenous peoples with better relationships with state power and not directly affected by extractivism, even expecting the redistribution of revenues from resource extraction, are not so prone to adopting similar discourses and often openly manifest their disagreement with other indigenous peoples' rights. Given the location of the vulnerable groups on the 'weaker' side of the social-environmental conflicts and within the local-national-global set of power relations, this resort to Nature in discursive strategies can be seen as an example of the 'weapon of the weak', to borrow from James Scott's concept (Scott, 1985).

Certainly, there is an enormous and still growing sense of the importance of natural preservation in the international public context, which is reflected in public debates on the national scale around the globe with Bolivia being no exception. Notwithstanding, the content and meaning of politically charged notions and narratives about the natural environment protection are beyond local communities' control. Their eventual negotiating position greatly depends on the definitions of environmental policies being monopolised by external forces that ignore real indigenous needs and interests, thus denying their subjectivity. The deliberate adoption of such discourses implies the adjustment to foreign interpretations and the self-censorship of their own, often different and more complex relationships with the environment.

This is exactly the case of the Chiquitano people in the Bolivian lowlands, where local communities employed ecologist discourse for strategic reasons. As Weber comments, 'Discourses around indigenous peoples' capacities to manage territories sustainably and concerning "ecologically noble" tropes often play powerful roles in the struggles surrounding indigenous territories … But while Chiquitano discourses on their territory and practices, in relation to land and resources, partly resonate with the "eco-native" trope, their visions for development and their future also disrupt it … [The "eco-native" trope] fails to articulate more complex notions of environment, socio-natures, ignoring their [Chiquitanos'] knowledges and lived realities' (Weber, 2016, p. 140).

As argued, the indigenous groups are primarily concerned with the autonomous control of natural resources in their territories, which does not necessarily equate to rejecting any resource exploitation. This means that the indigenous contestation of extractivism is more ambiguous and complex than the ecologist discourses may suggest. Moreover, for vulnerable, powerless groups such discourses can be a question more of necessity than free choice. The struggle can result in limited success or even different outcomes from what was expected.

We should be cautious not to continue the vision of some 'Hyperreal Indian', as called by Alcida Ramos, a vision of indigenous peoples who are entirely anti-modern and live in perfect symbiosis with Nature (because they are Nature themselves) (Ramos, 1994). The indigenous peoples' relations with the environment should not be seen as set in stone as our lecture of indigenous cosmovisions may suggest. Portugal Mollinedo accurately points out that social knowledge and everyday practices are not necessarily a copy of a cosmovision. 'The cosmovision is not a method of knowledge nor technique of production', but rather the opposite, the constantly 'changing knowledges and social relations modify and adjust cosmovision' that reflects them (Portugal Mollinedo, 2011, pp. 61–2).

Panorama of extractivism and indigenous rights

Despite the high hopes of the Bolivian indigenous peoples and the international fame of Evo Morales as the first indigenous president of that country, the political practice of the state regarding the indigenous rights resulted in a great contradiction with the state's official pro-indigenous agenda. In practice state-led extractivism prevails over indigenous rights. The state has not only failed to secure them but has also promoted extractivism. It became symbolic that before Morales' ascent to power, the 2005 *Ley de Hidrocarburos* (Hydrocarbons Law) incorporated indigenous peoples' right to be consulted with the aim of achieving agreement or obtaining consent for the project under consultation (República de Bolivia, 2005). However, in 2006, the very same year that Morales' presidency was inaugurated, the Constitutional Court pronounced against this measure, arguing that the norm should be only to consult on the eventual impacts and damage that some extractive projects can do. To receive the permission of affected people should not be among the goals of such consultation, since the subsoil is under state control and nothing can be an obstacle to the interests of the majority, as expressed by the state authorities (Arias López, 2012, pp. 210–12).

The initial pro-indigenous position of Morales' government was backed by the new constitution of the Plurinational State of Bolivia, promulgated in 2009. It emphasises many indigenous political, cultural and developmental

rights, among them the right to territory, territorial-administrative autonomy, own political systems, control of renewable resources and to decide their way of development. The constitution guarantees the right to free, prior and informed consultation (but not consent), obligatory for the state for any legislative acts or administrative decisions that would affect the interests of indigenous peoples, including the exploitation of non-renewable resources from their territories (Art. 30, 352, 403) (Estado Plurinacional de Bolivia, 2009). Such recognition follows the path established by the ratification of the 169 Convention of International Labour Organisation (ILO 169) in 1991 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Bolivia ratified UNDRIP in 2007 and the same year converted it in its entirety into the national law (National Act no. 3760) (Gaceta official de Bolivia, 2007), making pointless any discussion about the declaration's (non-)binding character. However, 12 years since Morales' first electoral victory and despite the ratification of important IHR instruments, Bolivia still lacks any real recognition of self-determination rights, especially right to consultation under the principles of free, prior and informed consent (FPIC).

The problem with the implementation of indigenous rights is directly related to the new economic policy launched by the government in 2006. It is based on the central role of the state in the economy, with modernisation projects and nationalisation of strategic resources (mainly gas alongside oil and more traditional mining industry) being treated as an 'engine' for the country's development. The export revenues provide budget for public investments and industrialisation projects, but they also fuel the system of redistribution through state-managed social programmes. These include the *Renta Dignidad* (Dignity Pension) programme for seniors, the Juancito Pinto stipend for children who regularly attend school, and the Juana Azurduy payments to pregnant women and mothers of infants (Mendonça Cunha, 2010; Powęska, 2010; República de Bolivia, 2006). However, it is important to acknowledge the great achievements of the new state policy in terms of economic growth (GDP per capita in 2005 was 1,018 USD in 2005 and 3,147 USD in 2014) and poverty reduction. In 2005 60 per cent of all Bolivians were poor and 36.7 per cent were extremely poor. In contrast, in 2013 the level of poverty fell to 39 per cent and the extreme poverty level dropped to 18.9 per cent (in rural areas the total poverty level was 80 per cent in 2005 and 60 per cent in 2013, while extreme poverty dropped from 65.6 per cent in 2005 to 38.8 per cent in 2013).[3]

The importance of resource extractivism for the national economy exacerbates the tendency to accelerate the consultations or omit them, in order to move quickly towards exploitation with the lowest costs and the biggest

3 Elaboration by the author on the base of Instituto Nacional de Estadística, www.ine.gob.bo.

volume possible, avoiding prolonged deliberations and negotiations. For the state, the consultations are a waste of time and only complicate effective economic and social policy.

The lack of any enforced regulatory law about consultations in activities other than resource extractive ones, e.g. construction of dams and other infrastructural projects, is alarming and will likely provoke new conflicts in the future. Bolivia still does not have any general law regulating indigenous consultations. The existing proposal for a Prior Consultation Law was ready in 2014, but it never entered into parliament debate and is awaiting a 'better future' (*Erbol* 2015a). The proposed law very carefully and evasively establishes that the aim of consultations is to obtain consent, but its general overtone reveals a very superficial and manipulative understanding of consent, in no way anticipating the actual withholding of consent by affected population. The proposed law mentions the consent only as a 'consensus achieved in the process of intercultural dialogue' between the state and indigenous peoples, and limits its scope to the incorporation of the population's view of development into the implementation of administrative decisions. Moreover, the project literally 'guarantees the execution and continuation of extractive activities' given their 'strategic character and public interest for the national development' (Ministerio de gobierno, Estado Plurinacional de Bolivia, 2014).

It is surprising that given that mining has been so important for the Bolivian economy throughout its history and has had such a huge impact for all the highland parts of Bolivia, the regulations for consultation in mining were only implemented in 2014. The new Mining Law explicitly denies indigenous rights to dissent to mineral activities and allows only for negotiations about mitigation of impacts and compensation (Estado Plurinacional de Bolivia, 2014). The previous lack of regulations provoked several claims for damages on the part of indigenous communities, one of the most famous being the Coro Coro case around the mine which devastated pastoral lands and sources of water for the local community; its operation had been never subject to consultation nor environmental study (Madrid Lara et al., 2012).

In many cases, indigenous peoples affected by extractive activities complain about the lack of any consultation. One of the biggest problem regarding the right to consultation in Bolivia is related to the issue of collective land titling and legal recognition of indigenous territories. The state does not apply the consultation mechanism in affected areas where the indigenous population lacks legal territorial recognition. This is especially worrying among the Guaranís, one of the groups most affected by hydrocarbon exploitation. Despite the fact that legal frameworks regulating indigenous territorial recognition has existed in Bolivia since 1996, the entitlement processes are extremely slow and there are many cases when the processes cannot be concluded for decades, depriving

the local population of their rights (Anthias, 2012). The latest case occurred in the Takovo Mora territory, invaded by a gas exploitation project without consulting local Guaraní people. Tired by endless administrative struggle (the Guaranís confirm that they were asking for entitlement for 19 years), in 2015 the indigenous peoples organised a road blockade to demand compliance with their rights. The protest was brutally repressed by the police (*Erbol*, 2015b; Heredia, 2015). The condition of legal entitlement of territory for the execution of consultation rights is considered a severe violation of human rights in light of existing interpretations of indigenous peoples' rights by the Inter American HR system. For the Inter-American Court of Human Rights 'the property rights of indigenous peoples are not defined exclusively by entitlements within a state's formal legal regime, but also include that indigenous communal property that arises from and is grounded in indigenous custom and tradition' (IACHR, 2004).

The centrality of the resource extraction in the national economy cannot be underestimated. In the last few years the gas and oil industry, together with traditional mining, has been generating 70 per cent of all export value.[4] The overall area designated for gas and oil exploitation has grown eightfold since 2007 and in 2012 it was about 24 million hectares, about 22.5 per cent of the whole country. This included 64 indigenous territories affected by subsoil resources extractivism (37 in the lowlands and 27 in the highlands) (Jiménez, 2012, pp. 7, 15 and 17). In 2010 the President issued Supreme Decree 0676 conceding vast territories in protected natural areas for hydrocarbon exploitation (Gaceta Oficial de Bolivia, 2010a). This move was repeated in 2015 with Supreme Decree 2366 opening up extensive protected areas for extractivism (Gaceta Oficial de Bolivia, 2015a).

Recently Bolivia, similarly to Ecuador and Venezuela, suffered a severe decline of state revenues from fossil fuels, caused by the global price fall. However, the government's response, instead of seeking alternatives to resource exportation, is to further intensify resource exploitation and create a new set of incentives for foreign investment to help recover prosperity (Honty, 2016). Not only were vast protected areas opened for extractivism, but indigenous rights were also modified. With the supreme decree 2298 issued in 2015, the state shortened the period of the consultation processes in fossil fuel exploitation and introduced modification that gives the state the ultimate decision about any project that could not be consulted on due to the fault of interested population (this simply means, for example, in case of lack of agreement) (Gaceta Oficial de Bolivia, 2015b).

The most infamous case of indigenous rights violation and subsequent conflict of international fame had to do with the government's imposition of

4 Elaboration by the author on the base of Instituto Nacional de Estadística, www.ine.gob.bo.

the decision to build a highway through the middle of Territorio Indígena Parque Nacional Isiboro Sécure (TIPNIS), a national park and indigenous territory with the richest biodiversity in the country. Concern about extensive deforestation, biodegradation and massive land invasions by *colonos* and *cocaleros* into their territory as a result of the proposed highway, the inhabitants opposing the project organised a march to the country's capital in 2011, claiming respect for their territory, the right to self-determination and autonomous decision-making regarding their vision of development. Specifically, they demanded compliance with the right to consultation, the suspension of construction works and prohibition of the highway project in the park. The protest was brutally broken down by the police in the locality of Chaparina, with more than 70 people injured and many protesters arrested.

However, with the opposition continued and under growing pressure from indigenous movements and national and international public opinion and activists, in October the government promulgated the 180 Law of TIPNIS protection. The law declared TIPNIS an intangible zone and prohibited any highways from passing through the park and any unauthorised settlements and land occupations by people from outside. This did not last for long as the government did not abandon the plan and in August 2017 the law was abrogated. The new 266 Law of TIPNIS Protection and Integral and Sustainable Development was issued and did not maintain the previous protectionist measures, leaving the park open for the reactivation of the highway project and all the related concerns.

Development, state and discursive appropriation of the indigenous agenda

Rivera provides an interesting observation that can be useful to reflect on the current indigenous-state relations in Bolivia:

> In Bolivia, we can observe a sort of dissimulation of the elites that seem to respond to a great extent to the challenge of the indigenous insurgency, but who after some time finish in expropriating and deforming its demands, up to converting them into a tool of a new state engineering. In the 1990s the official multiculturalism ... re-created an image of the indigenous as a rhetorical ornament of power, which served to legitimate [the] monopoly [of official power] (2008, p. 203).

For Rivera, through the multicultural reforms of the 1990s, the Bolivian neoliberal state exercised 'symbolic violence, naming and classifying the indigenous in order to subjugate and diminish them: to convert them into mere ornaments of the new schemes of the state's domination' (2008, p. 210). This fragment can be easily applied to describe the hegemony of power in today's Bolivia with Morales at the top. The hegemonic discourses are not reserved

only to neoliberal regimes, and Rivera acknowledges it very clearly: 'I am going to say it very strongly, the right is Evo now'. She called the decolonisation process in Bolivia just a mere show (*Erbol*, 2014).

The ornamental character of the pro-indigenous and pro-environmental official agenda of the Plurinational State of Bolivia is very clear in the example of the constitutional recognition of the concept of *Vivir bien*[5] inspired by Andean cosmovision, and its incorporation as an official state paradigm of alternative understanding of development, as well as economic and social relations to be followed and promoted in the country (Estado Plurinacional de Bolivia, 2009). At the United Nations forum Evo Morales criticised Western notions of development and capitalism as 'the worst enemy of humanity'. He was lobbying the UN to change Earth Day to Mother Earth Day, and at the UN Climate Change Conference in Copenhagen in 2009 he said: 'We have two paths: either *Pachamama* or death. Either capitalism lives or Mother Earth lives … Long live the rights of Mother Earth! Death to capitalism!'. In 2009, the UN General Assembly declared Evo a 'World Hero of Mother Earth' (Postero, 2013).

Following this course, in 2010 the Bolivian government issued the Mother Earth Law. The document recognises Nature as 'dynamic living system conformed by an indivisible community of all systems of life and living beings, interrelated, interdependent and complementary', and Mother Earth is considered sacred (art. 3.). Going further, the law gives Mother Earth rights to be protected, to maintain diversity of life, for preservation, equilibrium, renovation, to live free from pollution (Gaceta Oficial de Bolivia, 2010b). The former foreign minister David Choquehuanca even declared that the human beings are secondary to the interests of the environment: 'everything serves the life. The human being is in the second place, first there are ants, butterflies, water, rivers, stones, trees, mountains, the moon, plants, animals. We are after them' (Choquehuanca, 2012).

Analysing the current situation of indigenous literature in Bolivia, Ayllón underlines an interesting contradiction. When indigenous discourse became inherent part of state narratives and symbolic machinery, paradoxically indigenous literature in Bolivia became less manifest and seemingly almost non-existent. Ayllón explains this by the state monopoly about indigeneity that does not leave much margin for expressing alternative understandings of indigenous identity (Ayllón, 2016, p. 9). This is exactly the case of state-appropriated indigenous discourse and identities in the field of political rights and development debate. The vice-president and the prominent intellectual leader of the new state ideology, Álvaro García Linera, explains that thanks to the recent process of indigenous movements' activism and the incorporation of

5 For discussion of *Vivir bien* or *Buen vivir,* see the first chapter in this volume.

indigenous identities into the new concept of society and the new model of state, a new nation is being constructed in Bolivia built on plural ethnic identities, but merged into a broad political nation, indianised by newly incorporated citizens and their traditions, values and practices. This new indianised Bolivian nation is inclusive and universal, and its indigenous character is now shared by the whole society (generalised indigenous culture as the national culture) (García Linera, 2015, pp. 360–8).

The crucial outcome of this concept is that if the new nation is an indigenous nation and the plurinational state is an incarnation of such a new nation, the state has the power to define not only national interests and priorities, but also the meaning of indigeneity and the scope of indigenous rights. The interest of the majority can be presented as the interest of the indigenous peoples.[6] It is very dangerous, since inclusive indigenous culture associated with majority groups of society has the potential to exclude marginal indigenous groups (Canessa, 2012). It can be found in official state propaganda. During my last research trip to Bolivia in 2016, I saw a poster presenting Evo Morales together with the 18th-century Aymara anti-colonial hero Tupac Katari and the slogan: 'We have got back the resources. Now we have homeland. It is going well for us!'. The state controls and exploits natural resources in the name of the whole indigenous nation. The imposition of the development model and violation of the rights of peoples impacted by extractivism is silenced.

From the position of power and being associated with indigenous culture, the Bolivian state defines indigeneity and indigenous rights, being able to decide what should and can be accepted. The fate of the *Vivir bien* paradigm is very illustrative in this regard. It became reduced, manipulated and domesticated, due to the more recent position of the Bolivian state and its officials questioning the original content of the proposal and reorganising it accordingly to the classic concept of Western modernity (López Flores, 2014, p. 38). When the state decided to extend extractive projects into the natural protected areas, the vice-president said: 'It is good we have parks, we need to have many parks, we are the government that profoundly respects Mother Earth. But it does not mean that we are going to keep living like 400 or 300 years ago and leaving this wealth [natural resources] for others to come and exploit it in the future, not Bolivians' (*El Día*, 2013).

This radical shift in discourse about environment and Mother Earth is becoming more evident in the official messages of the state authorities. While at the beginning of the Plurinational State project the government promoted the paradigm shift and special relations with the environment based on indigenous principles of complementarity, recently this connection has become much looser and more indirect. An excellent example can be found in the discourse

6 For more about a universalising, inclusive understanding of indigeneity, see Canessa, 2012.

presented by the vice-president in the context of the controversies and conflict which arose around the project of the construction of a hydroelectric dam in Bala and Chepete (for many criticised as irrational and extremely harmful for environment and local indigenous peoples). 'The Mother Earth is also for modification … perhaps our ancestors did not construct terraces? They modified the Mother Earth to produce more. The Mother Earth is to modify her … to change and generate production in favour of the people … They want to forbid us to build dams and they tell us that we cannot build roads because of some tree. With this road or dam, we will have more trees' (Chuquimia, 2016). Moreover, García Linera called on the *Ponchos rojos* (pro-government Aymara militia from Achacachi) to defend the government against the rightist enemies of national development (Chuquimia, 2016).

On numerous occasions, Evo Morales repeated that indigenous peoples are the moral reserve for the whole of humanity, because of their better principles and values. It had become a typical discursive repertoire for many indigenous movements, depicting indigenous cultures as almost mythical examples of solidarity and brotherhood, dialogue, harmony and equilibrium, in opposition to the destructive and corrupt Western civilisation of injustice and poverty, plunder, deception and exclusion.[7] It was continued by Morales after his presidency, when he suggested a direct relationship between the ideology and policy of the new Bolivian state and traditional positive indigenous values. In 2014, during the First World Conference on Indigenous Peoples held in New York, Morales reiterated that 'we learned to live in harmony and equilibrium with Mother Earth and we are the moral reserve of the humanity' (AVN, 2014). However, as early in 2015 Morales commented: 'because of the fault of some indigenous brothers, who knows, the indigenous movement is no moral reserve any more, but because of some … who take money for compensation [for resource extraction], they deposit it in foreign banks and this money never comes back to their communities'. Symbolically, this message was given to the public at the International Gas and Oil Congress held in Bolivia (*Erbol*, 2015c).

If the indigenous state is the emanation of all the Bolivian indigenous peoples whose interests it stands for, everyone who opposes the interests of the majority can be perceived as traitor. The interest of the majority is presented as an interest of all the indigenous peoples and state policy is presented as realised in the name of all the indigenous groups. If some sectors oppose it and criticise, it is suggested to be due to foreign interference and manipulation by some NGOs, literally that they are paid off by the NGOs or other foreign forces. These indigenous groups are described as rightist and traitors. Once Morales said: 'Since the Right can't find arguments for opposing the process of change,

7 See Bolivian examples in Powęska, 2013, pp. 159–161, 205–8.

it's using rural, indigenous or original people leaders who have been paid off in special favours by NGOs' (quoted in Zibechi, 2010). On another occasion, in an effort to discredit the indigenous protest organised by the CONAMAQ movement, Morales said: 'I know all their leaders. Some of them have left their posts and later I have found them in the U.S. Embassy' (*La Razón*, 2010). Such accusations suggest also that the protesting indigenous peoples are not able to think and decide on their own and are only puppets in foreign hands. This is just one example of the typical discourse used against indigenous peoples by contested forces, depicting the former as only manipulated and deceived. The same schema was employed against the 1990 March for Territory and Dignity of the lowland indigenous peoples (Molina Argandoña, 2011, pp. 123, 130).

Moreover, if the state's development policy is the realisation of indigenous interests and desires for a better life, those who oppose it can be even classified as racist. In August 2017, when in the middle of protests against the TIPNIS new law, Evo Morales was receiving an award from the Latin American Social Science Council (CLACSO), the vice-president García-Linera commented that the protests were racist and were being organised by some rightist and NGOs gangs. For him, the opposition to the reactivation of the highway project in TIPNIS, as well as the critiques of awarding Morales, are racist, because the president was awarded for the recognition of indigenous peoples rights previously ignored in the country and Evo was honoured on behalf of the indigenous and peasant peoples (eju.tv, 2017).

The Bolivian government suggests an opposition between the protesting indigenous groups and the interests of society through underlining the importance of the national development policy and social programmes financed by the resources revenues. When numerous indigenous protests and critics of development policy arose in Bolivia few years ago, Morales said: 'They are saying … that the Bolivian people ought not have money, that there should be neither IDH [a direct tax on hydrocarbons used to fund government investments] nor royalties, and also that there should be no Juancito Pinto, Renta Dignidad nor Juana Azurduy [social programmes]' (quoted in Bebbington, 2009, p. 16). This way Morales antagonises different indigenous groups, pointing to the minority indigenous sectors as obstacle producers and trouble makers. As Canessa points out, for the Bolivian authorities the state 'represents and articulates the "collective interest of all the people", but this state has legitimacy because of its indigenous credentials'. It is 'a state based on indigenous legitimacy but which, paradoxically, subordinates indigenous interests' (Canessa, 2012, p. 22) We can say that the state has indigenous credentials and uses them against another, 'bad' indigenous groups.

Hale argues that the neoliberal state was recognising indigenous rights and organisations, as long as they did not question 'basic state prerogatives' and its

economic model. Through the instrumental treatment of ethnic issues the state domesticated indigenous actors, creating an *indio permitido*, an 'authorised Indian' who adapts the state's logic and perpetuates its domination. The *indio permitido* is associated with development projects, while the 'protesting Indian', opposing to ideological dogma, remains excluded (Hale, 2004, pp. 17–19). The same can be said about current relations between the Bolivian state and indigenous peoples in the context of contemporary state-led extractivism. It is certain that the Bolivian government treats the different indigenous groups differently. The ones whose interests and development expectations coincide with the state's priorities are manifestly privileged, while groups with another perspective and who oppose governmental development policy experience many problems, as discussed in the next section.

Interethnic conflicts, the TIPNIS case and the fall of 'the indigenous movement' in Bolivia

When we discuss the rights of indigenous peoples, it is often overlooked that indigenous peoples are not a homogenous, unified, monoblock. On the contrary, they are highly diverse and often conflicted groups. This is the case for indigenous peoples in Bolivia and it is well reflected in the indigenous approach to the question of their political and developmental rights.

If previously many indigenous organisations were united against neoliberal policies, after Morales' ascent to power the indigenous coalition fell down and several interethnic conflicts erupted. If we need a metaphor, we could say that the conflicts were voiced while the cake was being cut at the victory celebrations. In the aftermath of the new Bolivian constitution new laws were introduced and struggles began over specific gains by different indigenous groups following the launch of the general decolonisation project, as well as after the implementation of concrete reforms. The difference of interests between apparently united indigenous groups generated different interpretations of what decolonisation exactly entailed, what the right to territory meant, how indigenous autonomies should be organised, to whom resources belonged, and so on.

In Bolivia, there are some indigenous groups that are more traditional and have stronger ties to their ancestral territories than other groups. However, all of them compete over lands and resources. Some of them are the majority, other marginal minorities. Some are consequently opposed to the governmental plans of centrally controlled economic development, and some of them are undisputable allies of the government and seeking to co-opt the state. Generally, the more market-oriented peasants, colonisers and *cocaleros*, mainly from Aymara and Quechua majorities, have a different approach to the question of territorial control, political autonomy and resources than,

for example, their minority counterparts in the lowlands and Amazon. It is important to underline that all these groups are perceived equally native and in light of the new constitution they are treated the same. The constitutional concept of 'pueblos y naciones indígena originario campesinos' recognises historically determined differences in self-definitions applied by different peoples, but does not differentiate them as rights holders. As is shown in this section, this has serious consequences for social-environmental conflicts and natural resource and/or territory disputes. Rival groups can evoke the same indigenous rights, vying over who has a more legitimate claim. Sometimes opposing groups with different interests draw on different aspects or elements of the same indigenous rights framework.

In September 2009 a conflict erupted between, on the one side, Moxo, Yuracaré and Chimane indigenous peoples, and, on the other, the *cocaleros* and colonisers who invaded their territory in the previously mentioned TIPNIS national park and indigenous territory (*El Deber*, 26 September 2009). Other similar conflicts over territory have been seen between *campesinos* and Leco indigenous people in La Paz, or between *campesinos* and Guarayo people in the Eastern lowlands (*Los Tiempos*, 2010). The executive secretary of the CSUTCB confederation of indigenous peasants, Roberto Coraite, criticised the transfer of territorial rights to the lowland indigenous peoples: 'in determined territory there is no sole sector living that can dispose of the resources ... in the Constitution it says we have the same rights, we should be treated in an equal way and with equality of conditions and opportunities' (*Erbol*, 2010). The former executive of the CSUTCB, Isaac Ávalos, also commented on lowland indigenous territorial claims in a similar manner: 'The indigenous want land to be redistributed only among them. And what will be left for us?' (*La Razón,* 5 July 2010). Leonida Zurita, a *cocalera* leader and MAS militant expressed it this way: 'It cannot be that the fiscal lands are kept only by the indigenous, the land should be distributed equally for everyone … we also have right to land equally to them' (Lora Fuentes, 2011).

The same way of thinking can be found in the words of Evo Morales, who once said: 'How it is possible that all the national parks or fiscal lands go to hands of some indigenous brothers; that some wood concessions go to the small groups of indigenous movement? I believe this is a form of opposing the policy we are developing' (eju.tv, 2010). The conflicts over territory and resources led the CSUTCB to prepare a new law called *Ley de Tierras* (Lands Law). According to the CSUTCB activists, the law was conceived as a mechanism to regulate the redistribution of land and guarantee equal access to land resources to all sectors, not only the lowland indigenous. The general aim was thus the 'democratisation of the land access'. From the point of view of

the CSUTCB, TCOs[8] have to be revised, since they have converted into 'new *latifundias*'. The movement's leaders maintain that 'the current agrarian policy privileged only the [lowland] indigenous peoples' (*Erbol,* 2011). The project proposes to take a census of indigenous peoples, to quantify their real territorial necessities, and to redistribute equally the excessive lands of the TCOs. The actual owners of the TCOs would have to demonstrate that they administer land and resources properly, and if not, the land would be expropriated. In order to balance the rights of indigenous and *campesinos*, the project proposed the creation of Tierras Comunitarias Campesinas (Communitarian Peasant Lands, TCC) that would dispute with the TCOs over territories. What is also important here is that TCCs could be established also by the rural populations who migrated into new territories and not only by populations with historical and cultural rights to occupied land, as in the case of TCOs (CSUTCB, 2011). The *campesinos*' willingness to monitor lowlanders' way of using their territories harks back to old discourses about savages that do not know how to work properly, reproducing colonial stereotypes (Weber, 2016, p. 144).

Regarding the consultation rights, in 2010 the executive secretary of the CSUTCB Roberto Coraite said publicly that the idea of consultation of indigenous peoples about the exploitation of resources and other governmental projects should not be incorporated for the unilateral benefit of some indigenous groups, but should be subject to a national referendum in order to not harm the development interests of the majority (*Erbol*, 2010). Interestingly, such an approach, which privileges the majority, is widely accepted and fully promoted by President Morales. Arguing against the consultation in TIPNIS, he said: 'The constitution and international law mandate previous consultation, and we always respect that, but letting a group of families tell us what to do would mean paralysing all our work on electrification, hydrocarbons and industries' (quoted in Canessa, 2012, p. 27).

In the infamous TIPNIS conflict over highway construction there are also other motives for the rejection of the state's project, which was suspected to be promoting the further expansion of resource exploitation and facilitating new waves of migration of the colonisers and *cocaleros* to lowland indigenous territory. From the point of view of state authorities, they all held the same rights as indigenous groups, so why should the interests of the majority be subsumed to the interests of the small minority? Moreover, the TIPNIS case repeated the very common pattern seen in the Aymara and Quechua colonisers in treating lowlanders as inferior, uncivilised and predestined to be subjugated, echoing colonial discourses and power relations (Canessa, 2012, pp. 24–8).

8 Tierras Comunitarias de Origen – indigenous collective lands transferred to communities on the basis of their historical and cultural rights to occupied territories, recently renamed as Territorios Indígena Originario Campesinos (TIOC).

The TIPNIS case is Bolivia's most emblematic example of discursive struggles embedded in asymmetrical power relations. As it was shown, the Nature, ecologist discourse, and also indigeneity and indigenous understanding of development, are the field of powerful political meanings disputed by different forces and actors, among them the state. If previously the indigenous peoples in TIPNIS in their majority stood united against the highway project, during the six years after the promulgation of Law 180 of TIPNIS protection, in great part as a result of constant governmental pressure, the communities have divided, taking opposite positions in the conflict. The project for the new 266 Law was formally presented as prepared by the communities in favour of the infrastructural plans. They claimed the annulation of intangible status of TIPNIS with the arguments (incorporated officially in the law) derived from the indigenous peoples rights framework as established in the international legal acts, such as the rights of indigenous peoples for the universal and equal access to development, basic services and free movement, access to education, health services, eradication of poverty. However, this claim was backed by the principles of the self-determination and indigenous autonomous deciding of development priorities accordingly to cultural criteria and the principles of harmonious coexistence with Mother Earth (Estado Plurinacional de Bolivia, 2017).

The other side of conflict, the communities worrying about their survival due to the negative environmental and development effects of the highway, also employ the indigenous rights framework and even similar arguments of self-determination and autonomous deciding of their vision and priorities of development. Notwithstanding, they emphasise another aspect or angle of indigenous rights, underlining rights for protection of indigenous territories, their traditional ways of life, their environment and natural resources. Thus, the conflict shows not only the difference in interests, but also the competition of different though equally important and valid or rightful aspects of indigenous rights.

The problem is that the state has never played a neutral role in this conflict and has always privileged a particular discourse of indigenous rights and particular indigenous groups' interests, those compatible with its own development plans. In this context, the TIPNIS case is an excellent example of the ecologist discourse trap. Yet in 2011 when the protesting communities in TIPNIS demanded the protection of territory from highway construction and settlements by outsiders, they did not understand the 'intangible status' of the zone as a strict prohibition of any development and commercial activities. Since the 1990s when their territorial rights were officially recognised and TIPNIS got the double status of national park (declared in 1965) and indigenous territory, the inhabitants could use all the renewable resources

according to their traditional cultural practices and norms (except in the core area, preserved exclusively for biodiversity conservation). The indigenous communities were co-managing the natural resources with park authorities, under the system of conservation norms, plans of resource management and studies of sustainability of biodiversity, all discussed and approved in dialogue between inhabitants and authorities, drawing on the environmental knowledge of locals. In that model, the communities were permitted to undertake activities such as authorised logging, caiman hunting for skin export or commercial cocoa and fruit cultivation, all under limits and monitoring. But by declaring TIPNIS as an 'intangible zone' in 2011, the government purposely took the radical interpretation and banned all those economic activities crucial for communities' existence. The intangibility of TIPNIS was used by the state as a tool for political pressure. With no opportunities for earning money (it was even hard to get fuel for motorboats to transport cocoa or fruit to markets), lacking education and health services, many indigenous people abandoned their communities and migrated to cities, others slowly withdrawing their dissent for the highway. In a few years, under the political and economic pressure put by the state on the indigenous peoples, their majority broke down.

With the ongoing conflicts between different indigenous groups and their disputes over not only land or resources, but also over the very meaning and scope of indigenous rights, and with the state not hesitating to take sides in interethnic conflicts according to its own development priorities, it is hard to maintain the vision of some unitary 'indigenous movement' in Bolivia. For Mayorga, the indigenous movement has been deconstructed, since 'the components of this social movement are groups whose collective rights are defined territorially; the exercise of these rights requires the establishment of agreements between every particular indigenous group with the state, it means in specific, particular and separate way' (Mayorga, 2014, p. 41). He points out that paradoxically, the implementation of the principles of the Plurinational State seems to lead to the dismantling of 'the indigenous movement', whose demands had initiated the construction of a new state model (Mayorga, 2014, p. 42). This paradoxical outcome is the result of the above-described conflicts of interests between different indigenous groups that shape their understanding of rights, in accordance with their political strategic needs. But importantly, the dismantling of the previously united indigenous movement probably would not have happened without the state playing an active role in rights disputes, motivated by its interests in imposing one version of the development model and the expansion of extractivism.

Moreover, given the situation of unequal power relations and the different views of various indigenous groups towards the state's power, despite the existence of the state's official discourse of indigeneity and the vision of a new

unified indianised Bolivian nation, the state still privileges more influential groups at the cost of those more vulnerable. As Canessa points out:

> we need to explore more systematically the kinds of relationships indigenous discourses demand of the state. The Bolivian case points to a number of interesting tensions and contradictions which occur when indigeneity shifts from being language of opposition to the language of governance; from when it moves from articulating the discourses of vulnerable minorities to those of national majorities. Discourses of indigeneity have as much potential to create hierarchy as to dismantle it and the empowerment of some indigenous people may entail the disempowerment of others (Canessa, 2012, p. 32).

For this reason, Canessa proposes the 'conceptual distinction between inclusive national indigeneity for the majority, which seeks to co-opt the state, and a concept of indigeneity for a minority, which needs protection from the state' (Canessa, 2012, p. 5). This would translate into a division between autochthony and indigeneity, as proposed by Geschiere (2009), and would require the creation of a new system of rights. If the protection of vulnerable minority groups is to be returned to the state, which remains the most important element for ensuring compliance with the new rights, this creates a conflict of interests.

Conclusion

In this chapter I have shown that the Bolivian case proves that the official pro-indigenous stance does not guarantee indigenous protection from extractivism. On the contrary, indigeneity can legitimise the state's policy. When the state claims ownership of the indigenous agenda and its symbolic instruments, their original emancipatory potential is removed. The state-managed official indigenous discourse masks the existing contradictions and conflicts in the field of indigenous rights and the dilemmas of development. The visible discrepancies between pro-indigenous rhetoric and the acceleration of extractivism causes the Bolivian state to adjust its official discourses in order to legitimise current policy and present it as fully coherent with the idealistic principles derived from indigenous cosmovisions. This occurs though (or rather because) the government is rhetorically pro-indigenous and itself has its roots in organic indigenous movements, maintaining its strategic alliance with some of them. The Bolivian government presents itself as legitimate incarnation of indigenous power and an advocate of indigenous peoples' interests. However, the state appropriates the indigenous agenda as part of state ideology and discursively transforms it to fit into its own development and economic priorities. The indigenous rights and indigenous agenda are therefore being deformed, manipulated and domesticated by the 'indigenous state', hindering the ability of peoples affected by extractivism to defend their rights.

The interethnic conflicts also play a pivotal role in weakening indigenous challenges to extractivism. There is virtually no unity between previously allied groups. Many groups are in favour of expansive development policy. The majority of indigenous groups in Bolivia claim they have the right to benefit from development projects that were previously controlled by external forces. Their version of indigenous rights is about the control of resources by the majority, the original Bolivians, rulers of their own territories with equal access to higher living standards. This vision does not combine very well with the other facet of indigenous rights framework which emphasises the needs of minority groups which are affected by the negative effects of development and their claim for protection. In an apparently paradoxical way, both sides resort to the principle of deciding freely their own vision of development and future, but from different power positions and different rights' angles, strategically adopted to back their different interests. The discursive struggles remind us that the indigenous peoples' rights, especially in the environmental and natural resource context, are a disputed field of potent political meaning, where asymmetrical power relations play a pivotal role and the state remains a crucial player. The TIPNIS case is also an example of how the ecological discourse can have a double-edged effect on indigenous peoples.

Moreover, even if a legal difference between majority and minority indigenous groups' rights were introduced, the state would remain the last and most important element responsible for their incorporation and genuine implementation. With the state actively involved in the dominant development model, with vital interests in the expansion of extractivism, this seems very unlikely.

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3. REDD+ and human rights in Latin America: addressing indigenous peoples' concerns through the use of Human Rights Impact Assessments

Malayna Raftopoulos

With greenhouse gas emissions moving beyond the realm of dangerous (Anderson and Bows, 2011), having risen dramatically since pre-industrial times, developing strategies to stabilise atmospheric concentrations of greenhouse gases (GHGs) has become of global importance. Widespread concern about climate-induced ecological collapse has led to a 'seismic shift' in the role of forests in socio-economic development and an increased interest in tackling the drivers of deforestation and degradation (Sunderlin and Atmadja, 2009, p. 48). The Fourth Assessment Report by the Intergovernmental Panel on Climate Change (IPCC) highlighted the forestry sectors contribution to global warming with deforestation, forest degradation, forest fires and slash and burn practices making up the majority of carbon dioxide emissions. Accounting for around 17 per cent of global greenhouse gases, the forestry sector is the second largest source of emissions after the energy sector (IPCC, 2007). Furthermore, the publication of the review on the economics of climate change by the ex-World Bank economist Sir Nicholas Stern stressed the importance of reducing emissions from tropical forests, recommending that measures of avoiding deforestation be included in the post-2012 commitment period under the United Nations Framework Convention on Climate Change (UNFCCC) and emission trading schemes be expanded and linked. The report also convinced policy makers that eliminating most deforestation would not be expensive compared to other mitigation strategies, costing on average US$1–2 per tCO2 (Stern, 2007).

Despite the US failing to sign the Kyoto Protocol in 1997 and to commit to significant cuts in greenhouse gas emissions, the insistence of the Clinton administration to incorporate carbon trading as a central pillar of international climate change policy secured the creation of pollution markets modelled on the cap-and-trade system (Kill et al., 2010). Ervine argues that the inclusion of carbon trading emerged in part from the North's desire to minimise the cost of complying with the legally binding emissions reduction targets set under the Kyoto Protocol and on the premise that the lowering of carbon emissions

is much cheaper for some countries than others (Ervine, 2013). Critically, Clinton's incorporation of carbon trading in the Kyoto Protocol created a new political and economic identity for carbon dioxide, incorporating it into global trade networks and leading to the emergence of a market for the buying and selling of greenhouse gases. It also set in motion process of geographical differentiation whereby countries in the global South 'have been integrated into the global carbon market primarily as producers and sellers of project-based carbon credits, called Certified Emission Reductions (CERs), intended to aid Northern countries in meeting their mandated reductions' (Ervine, 2013, p. 653).

The subsequent emergence of payment for ecosystem (PES) schemes such as Reducing Emissions from Deforestation and Forest Degradation plus Conservation and Sustainable Development (REDD+) have been developed to promote economic growth alongside the protection of ecosystems by ensuring forest conservation is economically more attractive than forest destruction. According to Corbera, REDD+ has become the 'world's largest experiment in Payments for Ecosystem Services (PES)', designed to create a multi-level system that transfers economic resources from carbon offset buyers to sellers (2012, p. 612). PES schemes such as REDD+ have become embedded in the 'sweeping movement of commodification' and 'free market environmentalism', which has ultimately led to the standardisation and quantification of carbon (Lohmann, 2010). Under the umbrella of climate change mitigation and green economy, REDD+ has ushered in a new era of privatisation of nature never seen before which will inevitably be extended to other forms of biodiversity and so-called 'environmental services'. REDD+ has become embroiled in the discussion on the conservation of nature as a capitalist project where nature is produced and transformed though its conservation (Büscher, 2013).

Given their widespread reliance on natural resources and ecosystems, indigenous peoples and forest-based communities are especially vulnerable to policies such as REDD+. As Howell observes, 'what was originally perceived as a straight forward project with technocratic solutions has turned into a highly complex "society" project' (2015, p. 147). Instead of viewing forests as complex eco-systems that support wide varieties of life and biological processes, the REDD+ framework has redefined the role of forests as carbon sinks. In doing so, policy makers have failed to consider and incorporate local ontologies and epistemologies into REDD+ initiatives, ignoring the intrinsic link that exists between people and their environment and placing forests outside of society (Howell, 2015). Concerns regarding the consequences of REDD+ initiatives on forest-based and indigenous communities have forced aside this 'assumed and unquestioned conceptual division between nature and society'

as environmental and human rights non-governmental organisations (NGOs) question the impact of REDD+ on local communities (Howell, 2015, p. 147).

While the rights of those local communities affected by REDD+ activities have become central to its narrative, there has not, as Howell points out, been 'much sign of serious attempts being made within REDD to find out what their views actually are' (2015, p. 154). Furthermore, despite this growing recognition that REDD+ will have a significant impact on indigenous people, little attention has been given to fully exploring the impact the scheme will have on the protection and promotion of their human rights. Therefore, a key challenge for the international community will be to ensure that REDD+, in addition to delivering emissions reductions as well as the promised co-benefits, protects human rights and provides long-term pathways out of poverty for forest-based communities. Carrying out human rights impact assessments (HRIAs) on REDD+ would have a number of potential benefits. Firstly, in addition to increasing the attention focused on those communities connected to REDD+ activities, it can help build the political will to compel governments and the international community to implement appropriate procedural standards, including assessment, monitoring and verification mechanisms, into the rhetoric of REDD+. Secondly, it would provide a thorough understanding of the human-rights impact of REDD+ activities, the legal duties and safeguards placed on national and regional governments with regards to the scheme and its potential human rights impacts on future generations. Thirdly, it has the potential to act as an early warning system and provide policy makers and governments with valuable information, enabling them to take prompt action (Raftopoulos, 2016). Fourthly, as Hunter posits, 'rights-based perspective can inform a re-prioritisation of policy responses to climate change away from one focused solely on carbon accounting and toward one that considers more fully principles of equity, fairness, and the impact on the most vulnerable' (Hunter, 2009, pp. 334–5).

This chapter problematises the common assumption that forest protection through REDD+ also protects and promotes the rights of local communities and argues that more attention to the human rights dimension is needed in the debate. In outlining the case for a series of independent community based HRIAs, this article questions the commodification of nature in REDD+ and discusses the key areas of concern surrounding the programme. Furthermore, in its discussion on why REDD+ necessitates HRIAs, the article explores the implications a specific link between human rights and REDD+ would have on the promotion and protection of indigenous rights and its potential to change the ways in which REDD+ strategies are devised and implemented. In the context of the climate change crisis, formulating a specific link between human rights and climate change mitigation strategies is highly pertinent if they are

to have a positive impact on a local level. Developing appropriate safeguards for REDD+ is crucial if indigenous knowledge, law, customs and lands are to be protected.[1]

The REDD+ framework

Incentivising the reduction of emissions from deforestation, forest degradation and enhancing forest carbon stocks as well as sustainably managing forests has become a key pillar of the international climate change regime. REDD+ has proved to be increasingly popular because it is sufficiently broad to accommodate different interests and agendas (Brockaus and Angelsen, 2012). In addition to being viewed as relatively cost-effective compared to other mitigation strategies (Gullison et al., 2007), supporters of REDD+ argue that it has the potential to generate co-benefits such as poverty alleviation, biodiversity conservation, financial incentives, technical assistance and facilitated technology transfer (Pagiola et al., 2005; Venter et al., 2009).

It was during COP11 in 2005, that the 'Coalition for Rainforest Nations' via the Papua New Guinea government and the government of Costa Rica called upon the UNFCCC and the Kyoto Protocol to take note of present rates of deforestation within developing nations, acknowledge the resulting carbon emissions, and open up a dialogue to discuss options for reducing emissions from deforestation in developing countries. Included as an official negotiation item in the Bali Action Plan, the principle of providing financial support for addressing reduced emissions from deforestation and forest degradation was formally introduced onto the international climate agenda in 2007. At COP16, parties adopted the Cancun Agreements which agreed the final scope of REDD+ and included the adoption of seven non-mandatory safeguards for REDD+ activities into Annex 1. However, it was at COP19 in 2013 that negotiations on REDD+ were finally concluded. Building on the Cancun Agreement on REDD+, the Warsaw Framework included seven decisions on the implementation of REDD+. These included national forest monitoring systems, REDD+ finance, summary on information on safeguards, forests reference emission levels, measuring, reporting and verification forest-related emissions (MRV), coordination of support for the implementation of REDD+ activities, and the drivers of deforestation and forest degradation. Most recently at COP21 in 2015, three REDD+ decisions were adopted alongside the Paris Outcome relating to safeguards, alternative policy approaches, such as joint mitigation and adaptation (JMA) for the integral and sustainable management

1 This chapter is based on the article: Raftopoulos, M. (2016) 'REDD+ and human rights: addressing the urgent need for a full community-based human rights impact assessment', *International Journal of Human Rights*, 20 (4): 509–30.

of forests and non-carbon benefits, marking the end of the negotiations on REDD+ methodological issues and guidance (UNFCCC, 2016).

Recognising the financial value of stored carbon, REDD+ is a broad framework that allows tropical countries to be rewarded for their efforts to mitigate climate change by reducing net emissions of greenhouse gases through enhanced forest management and improved forest carbon stocks. Put simply, REDD+ seeks to make trees more valuable standing than felled, by financially rewarding governments or forest owners in the South to protect their forests through a variety of forest management options. Possible policies include governments strengthening law enforcement or changing the law to stop large-scale logging and forest conversion activities like establishing protected areas or increasing tree plantations (Raftopoulos, 2016). Underlying the REDD+ framework is the creation of a strong global partnership based on a commitment by developing countries to embark on low-carbon climate resilient development and on developed countries providing significant funding as an incentive for reduced forest-based carbon emissions (Hall, 2013). Split into three phases, REDD+ activities focus on the development of national strategies or action plans, policies and measures, and capacity building (phase one); the implementation of national policies and measures that could involve further capacity building, technology, development and transfer, and results-based demonstration activities (phase two) and; results-based actions that should be fully measured, reported and verified (phase three) (Parker et al., 2009, p. 97). Funding for REDD+ payments can originate from either national funds set up by multilateral institutions, major bilateral donor countries or NGOs, or from emerging global carbon credit markets (Hall, 2013).

The commodification of nature in REDD+

In recent years REDD+ has faced increasing criticism from forest communities and indigenous groups who argue that it has 'brought an onslaught of global and extractive economy measures directly to their doorstep, often resulting in ghastly negative environmental consequences for their territories and livelihoods' (Reed, 2011, p. 525). Some critics have even gone as far as to label REDD+ as 'CO2lonialism' or the 'REDD menace', claiming that REDD+ benefits the North at the expense of the South (Srivastava, 2011). While there is a general consensus that deforestation must be addressed, the climate change crisis has provided an opportunity for contemporary capitalism to incorporate nature through mainstream neoclassical economics into the global economy. Furthermore, world leaders have responded by pushing strategies that continue the capitalist tradition of placing profit above the protection of nature and turning natural cycles into 'broken linear processes geared to private accumulation' (Clark and Bellamy Foster, 2010, p. 142). Following

the tradition of mainstream economics, current mitigation responses to the climate change crisis are centred on the further commodification of nature by finding new innovative ways to 'turn natural resources into natural capital and to turn the climate into a market' (Clark and Bellamy Foster, 2010, p. 153). As Moonla remarked, politicians have favoured carbon because it 'replaces the irreducible complexity of global climate dynamics with a digestible concept, and by business because it allows the commodification essential to making climate tradable' (2012, p. 1). PES schemes like REDD+ convert forest ecosystems into monetary terms and reduce carbon to measurable quantities ready to be incorporated into the global economy, reaffirming again 'the reduction of the environment to the status of a commodity and as a mere substrate for economic growth' (Wilkinson, 2014, p. 197). Consequently, forest conservation has become a form of what Büscher terms 'liquid nature'; 'nature made fit to circulate in capitalist commodity markets' (2013, p. 22).

Capitalism's success as an economic system and mode of production has led to the rapid geographical expansion of the capitalist world-ecology and along with it, increased opportunities for accumulation by appropriation (Harvey, 2007). This 'pairing of plunder and productivity in world accumulation' has resulted in the reorganisation of nature on an increasingly capitalist basis and the continual expansion of commodity frontiers (Moore, 2011, p. 30). The endless drive for accumulation through constant competition creates a 'widening gap between the accumulation of value and the socio-ecological relations' (Moore, 2011, p. 18). Furthermore, it creates a crisis of over-accumulation that requires the continual construction of new markets frontiers and commodities as well as global expansion in order to overcome exhaustion (Harvey, 2007). The ecological crisis and current global discourses such as the neoliberalisation of environmental governance and the privatisation of nature have led to the reconfiguration of nature. No longer are the earth's different landscapes and species used by humans in such a way that allows for the reproduction of nature; instead the division of nature is geared solely towards the accumulation of capital, regardless of all other social and natural relationships (Clark and Bellamy Foster, 2010).

The relationship between the economy and nature has moved on from the 20th-century lexicon of conservation and sustainability to 'the economy of repair' (Fairhead et al., 2012, p. 242). As a result of the contradiction that exists between the global economy and the global environment, nature has become more valuable in multiple and new ways. As Fairhead et al. note, 'it is the repair of a damaged nature, and efforts to price the downside of growth, that have brought into being and enhanced the value of commodities such as carbon, biofuels and offsets of all kinds (whether biodiversity, species or climate)' (2012, p. 242). The incorporation of the 'economy of repair' into

the rhetoric of sustainability has created a 'market for different elements of valued ecosystems, which in turn creates the opportunity for financialisation, creating in turn 'fictitious conservation' intimately linked to the circulation of capital in new economic systems' (Fairhead et al., 2012, p. 244). The endorsement of the principles behind this new conceptualisation of nature by international environmental institutions and negotiations such as the UNFCCC has led to the replacement of ontologies of ecology by those of natural capital and ecosystem services (Fairhead et al., 2012). Corson and MacDonald (2012) argue that these institutions have become critical sites for enabling and legitimising new green market opportunities, orchestrating social and political relations between state and non-state actors. Furthermore, these power structures have minimised the importance of indigenous cosmologies, philosophies and worldviews (Goldtooth, 2011). PES schemes such as REDD+ are based on the assumption that 'remuneration will ensure their provision' (Firhead et al., 2012, p. 244) and have created new narratives of landscapes whereby 'forests become marketised "carbon sinks" and not lived-in places, with embedded histories and cultures', and created a new realm for capital accumulation (Firhead et al., 2012, p. 251).

As world leaders gathered at COP21 in Paris to negotiate an agreement to limit the rise in global temperature to less than two degrees Celsius, a series of protests against REDD+ were held by organisations such as Friends of the Earth International, the Global Alliance against REDD, Indigenous Environmental Network, Grassroots Global Justice and the No REDD+ in Africa Network. Indigenous representatives such as Tom Goldtooth and Gloria Ushigua[2] openly denounced REDD+ as a false solution to climate change, promoted through the United Nations climate agreement and pushed by developed nations. Goldtooth and Ushigua, among others, have raised concerns that REDD+ will lead to the privatisation of air, using forests, agriculture and water in the global south as carbon sinks to absorb pollution emitted from industrialised nations. Such programmes are resulting in the loss of forest people territories to large scale commercial forest operations, the restriction of access and use of natural resources by these communities, the lack of equitable benefit-sharing of REDD+ activities, exclusion of forest communities from the design and implementation of REDD+ policies and the increase in carbon piracy (Espinoza Llanos and Feather, 2011; Kelly, 2010; Savaresi, 2013). Furthermore, there are fears that it could slow or reverse improvements to forest governance at a national level by creating incentives for governments and commercial interests to deny or ignore forest dwellers access and control over forest resources (Brown et al., 2008).

2 Tom Goldtooth is the executive director of the Indigenous Environmental Network and Gloria Ushigua is the President of the Sapara Women's Association.

With forests overwhelmingly acknowledged as fundamental to global efforts to combat climate change and the Paris Accord heavily focused on voluntary market-based technological solutions such as forest and conservation offsets, indigenous people have reason to be concerned that REDD+ will impact negatively on their communities. Hoping to build on the seven non-mandatory safeguards for REDD+ activities inserted into Annex 1 in 2010 at COP16,[3] indigenous groups were left increasingly exasperated when indigenous rights were removed from the Paris Accord text. Due to concerns from the United States, the EU, Australia and other countries that it could create legal liabilities, indigenous rights were removed from the main text to the preamble. Despite support from the Canadian government to keep the inclusion of indigenous rights codified in the operative text as well as highlighting the importance of considering indigenous traditional knowledge alongside scientific analysis, indigenous rights remain an aspiration and non-binding.

The move towards the 'universal commodification of nature' (Corson and Macdonald, 2012, p. 266) has been met by fierce opposition from indigenous communities. As the indigenous representative Tom Goldtooth pointed out, current economic systems 'objectify, commodify and put a monetary value on land, water, forests and air that is antithetical to indigenous understanding' (2011, p. 13). This in turn makes it extremely difficult for indigenous communities to 'reconcile their traditional spiritual beliefs within a climate mitigation regime that commodifies the sacredness of air, trees and life' (Goldtooth, 2011, p. 13). Carbon trading and schemes such as REDD+ not only turn the sacredness of Mother Earth's carbon-cycling capacity into a commodity but also put at risk the Earth's capacity to support a climate that is conducive to both life and human societies (Goldtooth, 2011). While it is clear that climate change will severely impact the enjoyment of human rights, it has also become increasingly apparent that this will not be felt equally, with the poorest and most politically marginalised communities, in particular indigenous communities, affected the most. While these communities are important sources of knowledge and understanding on climate change, they are also highly vulnerable to impacts, response and adaptation strategies due to their subsistence-based lifestyles, reliance upon natural resources as well as the configuration of their lands and territories.

Therefore, indigenous opposition to REDD+ extends beyond a critique of current economic systems and incorporation of the 'economy of repair' into the rhetoric of sustainability to one that entails a deep concern for the

3 The safeguards recommended that REDD+ actions be consistent with objectives of national forest programmes and international agreements, have transparent and effective national forest governance structures, conserve natural forests and biodiversity, included actions to address the risks of reversals and actions to reduce displacement of emissions and respect the knowledge, rights and participation of indigenous peoples and local communities.

epistemological rupture that has taken place between nature and society (Acosta, 2015). One key concern of indigenous leaders is the violation of their traditional cosmologies, including their spirituality and their sacred relationship to Mother Earth, which differs greatly from Western ontology. The failure of the REDD+ framework to consider local ontologies and epistemologies reflects 'the forcible and growing dominance in most states of a Western, liberal construction of nature' which has 'led to the near exclusion of indigenous cosmologies and peoples from mainstream law and policy' (Irons Magallanes, 2015, p. 274). For those communities who inhabit the forests where REDD+ activities are planned, their spirituality, cultural identity and existence cannot be separated from the natural environment. In contrast to Western liberal ontology, indigenous cosmologies consider humans to be part of nature and reflect humankind's interdependence with nature (Irons Magallones, 2015). In other words, 'no "nature" exists outside of "society", or vice versa' (Howell, 2015, p. 162). Mitigation strategies that commodify nature such as REDD+ are antithetical to indigenous understanding of nature. Indigenous leaders argue that REDD+ does not allow their communities to reconcile their traditional spiritual beliefs that allow them to live in and be part of the natural world without threatening Mother Earth's ability and capacity to support a climate that is conducive to both life and human societies. Unlike Western ontology that now dominates common law and policy, indigenous beliefs do not disconnect the spiritual and physical realms from each other. Instead they are intertwined, with indigenous spirits and gods inhabiting the natural world through its mountains, rivers, landscapes, plants and animals (Irons Magallones, 2015). As Irons Magallones notes, 'the indigenous construction of nature effectively reverses the Western hierarchy: humans are not seen as having any right or even ability to completely dominate nature and are instead seen as its guardians' (2015, p. 281). These contrasting views on the construction of the relationship between human kind and the natural world have led to increased tensions between indigenous people and the nation states in which they live.

The frustrations of indigenous communities over the dominance of liberal ontology and its lack of consideration of the responsibilities of human kind to the natural world accumulated in the adoption of the Universal Declaration of the Rights of Mother Earth in 2010 in Bolivia. The declaration outlines the principles for making a shift away from euromodernity and modern ontology towards a more integral model that includes the idea of nature as an object of rights. Recognising Mother Earth as a living being with rights to life, to exist and to continue her vital cycles and processes free from human disruptions, it acknowledges that the Earth and Nature have inherent rights that need to be protected rather than exploited and commodified as 'natural capital'.

Within Latin America, indigenous conceptions such as *Buen Vivir* ("live well"), which incorporate strong environmental and intercultural components into its relational ontology, have been drawn into the post-development debate and have become an integral part of public discourse in countries such as Bolivia and Ecuador. As Gudynas notes, '*Buen Vivir* moves away from the prevalence of instrumental and manipulative rationality. It rejects the modern stance that almost everything should be dominated and controlled, either persons or Nature, so as to become a means to our ends' (Gudynas, 2011, p. 445). REDD+, in keeping with western liberal ontology, has a 'conceptual apparatus of domination and exploitation, which subverts the extent to which they will be ever able to protect both vulnerable elements of forest ecosystems and marginalised communities' (Wilkinson, 2014, p. 171). Moreover, PES schemes assume the most practical and efficient means of preventing deforestation and forest degradation is through the incorporation of marginalised communities into the market economy and that the social benefits of these schemes can be measured in monetary terms (Wilkinson, 2014, p. 184).

In line with this cognitive and epistemic shift that has taken place in Latin America and the subsequent adoption of original epistemological and ontological narratives, indigenous leaders have been highly critical of REDD+. During the International Tribunal for the Rights of Nature held at COP 20 and COP21, civil society groups such as the Indigenous Environmental Network argued that REDD+ is nature destructive. Furthermore, they laid out how REDD+ inherently violates the Universal Declaration of the Rights of Mother Earth in a number of ways. Firstly, with regards to article 1 on Mother Earth, REDD+ violates the following clauses:

- Clause 2 – Mother Earth is a unique, indivisible, self-regulating community of interrelated beings that sustains, contains and reproduces all beings;
- Clause 3 – Each being is defined by its relationships as an integral part of Mother Earth;
- Clause 4 – The inherent rights of Mother Earth are inalienable in that they arise from the same source as existence;
- Clause 6 – Just as human beings have human rights, all other beings also have rights which are specific to their species or kind and appropriate for their role and function within the communities within which they exist.
- Clause 7 – The rights of each being are limited by the rights of other beings and any conflict between their rights must be resolved in a way that maintains the integrity, balance and health of Mother Earth.

With regards to article 2 of the Declaration on the inherent rights of Mother Earth, REDD+ breaches:

- Clause A – Mother Earth's right to life and to exist;
- Clause B – Mother Earth's right to be respected
- Clause C – Mother Earth's right to continue its vital cycles and processes free from human disruption.

Finally, with regards to article 3 of the Declaration on the obligations of human beings, states and all public and private institutions to Mother Earth, REDD+ violates:

- Clause E – Establish and apply effective norms and laws for the defence, protection and conservation of the rights of Mother Earth;
- Clause F – Respect, protect, conserve and where necessary, restore the integrity, of the vital ecological cycles, processes and balances of Mother Earth;
- Clause G – Guarantee that the damages caused by human violations of the inherent rights recognised in this Declaration are rectified and that those responsible are held accountable for restoring the integrity and health of Mother Earth.

In making a prima facie case for carrying out an impartial HRIA of REDD+ based on substantial empirical data, this chapter argues that many of the negative effects of REDD+ activities revolve around four key issues. Each of these four issues have a legal basis in human rights and would provide key indicator data if a HRIA was carried out. These are: land grabs, land conflicts and violation of customary land rights; exploitative carbon contracts and corruption; the marginalisation of indigenous peoples and forest dwellers; and increased poverty and disruption of traditional forest-based lifestyles.

Land grabs, land conflicts and violation of customary land rights

Human rights concerns associated with REDD+ activities focus on the infringement of forest communities' substantive rights through the appropriation of lands and territories through dispossession, forced displacement, or the permanent leasing of land by indigenous communities (Lemaitre, 2011). In 2012, Vía Campesina declared its opposition to REDD+ activities taking place in the Lacandón jungle in Chiapas, Mexico, on the grounds that it is leading to the appropriation, commodification and control of the natural resources on indigenous lands. Ana Valadez, a legal specialist on environmental issues at Via Campesina, maintains that the Chiapas government violated inhabitants' rights by signing an agreement with the Californian state government, led by Arnold Schwarzenegger, without providing prior information to the populace (REDD Monitor, 2012). Moreover, strict rules on forest conservation are also leading to large-scale evictions of indigenous and other communities from so-called

'carbon protected areas' and the permanent loss of their rights over their land and resources together with the right to practice their traditional livelihood (Lawlor and Huberman, 2009). Ignoring the customary rights of indigenous peoples, new land use zoning exercises undertaken by the state to capitalise on forest carbon revenues are further marginalising forest-based communities and stalling or reversing the recent trends of decentralising forest ownership and management responsibilities to communities. In the department of San Martin in northern Peru, there are already reports that community land is being restricted. Indigenous people are now forced to hunt in allocated areas, prohibited from implementing their traditional system of rotational agriculture and from entering the forests without the permission of the regional government. Furthermore, land titles are only being given to the area around the community's homes (Forest Peoples Programme, 2012). Subnational projects are placing increasing pressure on land tenure and resource governments and failing to recognise internationally recognised indigenous peoples' rights. REDD+ projects are violating numerous rights laid out in both the ILO 169 and UNDRIP. For example, Article 14 of the Convention acknowledges indigenous peoples' rights to ownership and possession of land which has been traditionally occupied or used for their subsistence and traditional activities. Also relevant are Article 13, which stipulates that governments shall respect the special importance for the cultures and spiritual values of their relationship with their lands and territories, and Article 16, which states that indigenous people shall not be removed from the lands which they occupy and where relocation is considered necessary as an exceptional measure, it can only take place with their free and prior informed consent. The UNDRIP Declaration recognises indigenous peoples' right to maintain and strengthen their distinctive spiritual relationship with their lands (Article 25), their right to land, territories and resources which they have traditionally owned, occupied or used and the right to own, use, develop and control their lands, territories and resources by reason of traditional ownership (Article 26). Moreover, REDD+ is jeopardising the right to property as set out in the Universal Declaration of Human Rights (UDHR) due to insecure, informal and unclear land tenure rights in many developing countries. While REDD+ has the potential to secure land tenure rights for many indigenous and forest-based communities, the failure of governments to take into account traditional and customary land rights with regards to land-use zoning and forest management has meant that it has instead become a real threat.

Exploitative carbon contracts and corruption

The failure of REDD+ to clarify the nature of 'carbon rights' in legal terms has raised questions regarding who holds the rights to emissions reductions and

the associated benefits. The links between stored carbon and the ownership or management of land and forests has raised the issue of whether carbon rights should be considered as a land interest separate from the land upon which it is situated. This questions the established common-law presumption that the carbon contained within those trees is a natural part of the land and therefore belongs to the landowner (Karsenty et al., 2014). The lack of national guidelines has resulted in an explosion of carbon piracy and the emergence of unregulated subnational projects in indigenous territories. As project developers rush to snap up the legal rights to trade carbon, indigenous communities are being convinced to sign away their rights to land and carbon under terms that are highly favourable to commercial interests. Indigenous communities are signing long-term or indefinite contracts with little or no space for renegotiation of terms that grant considerable control and power to the project developers over financial and project administration as well as to intellectual property. The contract terms undervalue the true opportunity costs of land use foregone and offer little or no guarantee for the protection of indigenous and forest-dwellers rights, including their right to use and access natural resources and the principle of FPIC (Espinoza Llanos and Feather, 2011). With incidents occurring such as the two recently documented cases of carbon piracy in the Loreto region of the Peruvian Amazon, concern over how to reconcile forest carbon sequestration with the protection of forest people's rights is now dominating the discussion of REDD+ activities (de Jong et al., 2014). REDD+ projects have not only opened up a discussion on the need to clarify new rights, in particular, the right to benefit from carbon transactions, but have also placed increasing pressure on existing human rights. For example, Article 15 of ILO 169 recognises indigenous peoples' rights to the natural resources pertaining to their lands, including their right to use, manage and conserve these resources. Thus, answering the question of who has 'the right to the legal or economic benefit from carbon emission reductions and removals' has become of great importance to those countries and communities involved in REDD+ projects (O'Brien, 2012, p. 20). Countries will need to consider whether to nationalise carbon rights or incorporate them into existing land and forest ownership rights. Furthermore, a decision will need to be taken on whether third parties (logging companies, REDD+ project developers and carbon brokers) can hold or own forest carbon rights (O'Brien, 2012, p. 21). However, even if carbon rights are clarified, there is still the risk that vulnerable rights holders such as indigenous communities will be targeted by private buyers to sell their rights without understanding the full implication of the transaction.

Marginalisation of indigenous peoples and forest dwellers

Opponents of REDD+ such as Friends of the Earth have criticised REDD+ for its failure to include and involve forest communities as well as its lack of transparency, reporting instances of closed meetings and the issuing of invitations so late that the relevant stakeholders were unable to make travel arrangements in time (Hall, 2012). Underlying the exclusion of these marginalised groups is the 'interaction between socio-cultural inequalities, class and economic disempowerment' that accompanies the neoliberal order and capitalist model of production (Wilkinson, 2014, p. 186). Forest dwellers are increasingly being sidelined in negotiations as governments seek to push through their national REDD+ strategies. The issue of participation and the exclusion of local communities in REDD+ has become a real bone of contention for indigenous and human rights organisations. In 2013, indigenous peoples' organisations in Panama withdrew from the UN-REDD National Joint Programme (NJP) due to inadequate attention to rights issues by the government and UN agencies and the lack of full and effective consultations with indigenous peoples during the various stages and implementation of the programme (Forest Peoples Programme, 2013). The inadequate involvement of those affected by REDD+ policies and practices in the decision-making process is leading to the infringement of indigenous rights. These rights include the violation of Article 6 and 7 of ILO 169 which stipulate that governments should establish appropriate and effective mechanism for the consultation and participation of indigenous and tribal people at all levels of decision-making regarding issues that affect and concern them. Also, Articles 18 and 19 of the UNDRIP declaration which state that indigenous peoples have the right to participate in decision-making whenever the matter at hand affects their rights. Furthermore, states shall consult and cooperate with indigenous people through their own representative institutions to obtain their FPIC before adopting and implementing any legislative or administrative measures that would affect them. According to the UN Development Group Guidelines on Indigenous Peoples' Issues, 'free' should imply no coercion, intimidation or manipulation and 'prior' should imply that consent has been sought sufficiently in advance to the authorisation or the beginning of activities and that the time requirements for indigenous consultation processes to occur have been respected. 'Informed' should imply that the information provided covers (at a minimum) the nature, size, pace reversibility and scope of the proposed project or activity, the reason(s) or purpose and duration of the proposed project or activity, the areas that would be affected, those who are likely to be involved, the procedures the project or activity may entail and 'a preliminary assessment of the likely

economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit sharing in a context that respects the precautionary principle' (UNDG, 2008, p. 28). The REDD+ programme has highlighted the lack of respect for FPIC across the forestry sector, undermining the right of indigenous people to self-determination which is also recognised in the International Covenant on Economic, Social and Cultural Rights (ICESCR). As Pham et al. note, 'there is so far no common understanding on how to integrate all parts of FPIC: the elements of free, prior and informed consent; the links between processes and outcomes; and the requirement that FPIC is employed at certain points in time during a REDD+ activity' (2015, p. 2407). Increasing evidence demonstrates the lack of effective actions to ensure the participation of indigenous people in the planning and implementation of REDD+ projects as well as lack of consent for its implementation during the various stages of the REDD+ process.

Increased poverty and disruption of traditional forest-based lifestyles

The implementation of REDD+ will involve large areas of forests, often situated on indigenous lands and territories. Given that indigenous communities rely heavily on the forests for shelter, food and all other aspects of their livelihoods they are particularly vulnerable to policies like REDD+. There are concerns that the programme could lead to an increase in rural poverty and undermine some of the ecosystem services that local people depend on to survive, resulting in decreasing local food production and creating food security risks. Decreased food production through the large-scale implementation of REDD+ could also lead to higher food prices as farmers dedicate their time, labour and land to trees instead of farming and may also affect local commodity prices such as the price of land and the availability of non-timber products. Without efficient and open forest governance and effective systems in place, benefits of REDD+ such as the payments of compensation will not reach the communities and will instead be captured by national elites or unscrupulous foreign investors, leaving local communities without a sustainable income (Lawler and Huberman, 2009; Roht-Arriaza, 2010). Furthermore, under REDD+, traditional forms of land use practiced by indigenous people such as the collection of fuel wood, controlled burning of forests to improve habitat diversity and shifting cultivation (despite sustainable rotational agriculture and agroforestry systems being protected under international environmental and human rights laws) are now considered to be forms of 'forest degradation'. The REDD+ mechanism fails to distinguish between permanent and temporary forest loss and fails to acknowledge that many of the traditional practices used by forest-based communities are often

carbon neutral. The inclusion of these activities as forms of forest degradation will have a severe impact on forest-based communities' ways of life and their livelihoods. In Brazil, a local farmer was arrested at gunpoint and thrown in jail for 11 days by *Força Verde*, the armed guards of Chevron's REDD+ project in Brazil, for cutting down a tree to repair his mother's leaky roof (Climate and Capitalism, 2012). Given the threat that REDD+ poses to those communities who live and depend on the forests, there is a real risk that prevented from carrying out their traditional productive activities, forest-based communities will be forced to migrate to cities (Griffiths, 2009). Current REDD+ practices jeopardise a number of provisions set out in the legally binding treaties of the International Covenant on Civil and Political Rights (ICCPR), and the ICESCR. These include: the inherent right to life when traditional indigenous life styles are shown to be impaired; the prohibition of arbitrary or unlawful interference with privacy, family home or correspondence; the right to adequate food and housing which includes being able to live directly off the land or other natural resources and a degree of security with regards to land tenure to ensure against forced eviction; the right of freedom of movement and freedom to choose a place of residence; the right to an adequate standard of living and the right to participate in a cultural life. There is a likelihood that given the top-down nature of REDD+ projects, with most likely to be coordinated at the national level, and the financial incentives associated with the programme, recognition and clarification of rights will be overlooked or downplayed by national governments. Unless rights are assured, REDD+ could seriously harm indigenous communities, traditional livelihoods and subsistence methods, as well as indigenous knowledge, cultures and spiritual values.

A need for human rights impact assessment

The last ten years has seen a growth in HRIAs as a policy tool and they have been developed by a variety of actors as an extension of, or improvement on, Social Impact Assessments (SIAs) and Health Impact Assessments (HIAs). HRIAs have become an important tool to measure human rights impacts, particularly with regards to the influence of policy and practice. As Harrison and Stephenson note, 'at the heart of an impact assessment is the idea that it might have a transformational power to change policies and make peoples' lives better' (2010, p. 16). Considering the impact of REDD+ in human rights terms would allow indigenous people to make a human rights-based argument centred on their fundamental critiques and bring to light the human rights effects of current climate change policies. If carried out properly, an HRIA would help indigenous people demonstrate the cause and effect relationship between REDD+ and the promotion and protection of human rights in a structured way, allowing them to challenge the current framework of the

mitigation scheme and make the argument that marginalised, disadvantaged and vulnerable groups should be better protected. Moreover, the participatory nature of an HRIA encourages key rights-holders, such as indigenous people, to substantively and meaningfully participate in climate change mitigation policy debates. One of the key advantages of carrying out an impact assessment based on human rights is that the international legal framework of human rights has become increasingly embedded within states' practices and adopted into national and international constitutions and agreements. By measuring the impact of policies in terms of codified legal human rights standards, HRIAs fundamentally ground their analysis and evaluation in human rights norms and standards. In order to avoid turning HRIAs into a tick-box exercise, which ultimately acts merely as window-dressing or is used to justify a decision that has already been taken, and to maximise their potential to address the real human rights issues, a detailed evidence-based analysis centred on key indicators is needed to ascertain if a particular right has been violated. As Harrison and Stephenson suggest, the indicators selected will be content-specific to the human rights framework employed and used as the basis of the analysis. For example, 'indicators relating to economic, social and cultural rights will utilise indicators based on those frameworks (e.g. minimum core obligations, progressive realisation, availability, accessibility, acceptability, quality)' (2010, p. 54). Critical to the success of the use of indicators is their translation into a language that can be understood and used effectively by non-legal specialists undertaking the HRIA (2010, p. 54). Moreover, barriers to effective participation and consultation, such as language, literacy, lack of time, access issues, lack of awareness and lack of faith, all need to be addressed if key rights-holders are to be consulted (2010, p. 52).

The human rights framework offers not just an important means of analysing REDD+ and its impact on forest-based communities but also provides the tools for acting on that analysis. Adopting a rights-based approach can potentially 'provide useful guidance to inform and strengthen international and national law and policy making on REDD+' (Savaresi, 2013, p. 5). Given that it is the world's poorest people and nations that disproportionately bear the social costs of these socio-economic disparities, 'including the toxic social and environmental fallouts now manifesting as climate crisis, human rights must play a critical role in any response to the climate change crisis' (Grear, 2014, p. 120). Taking a human rights approach to climate change mitigation can also help change perceptions that it is solely a scientific problem and improve our understanding of its impact on an individual's human rights and interests (Knox, 2014).

A rights-based analysis is particularly useful as leverage to build more effective political coalitions and pressure for action, especially for

marginalised groups such as indigenous people who are increasingly looking to both international human rights and international environmental law for protection. Since the Convention on Biological Diversity came into force in 1993 and later UNDRIP in 2007, indigenous and minority groups have begun to make to the critical link between the right to self-determination and environmental conservation, demanding legal recognition of their role as guardians of the earth's ecosystems and the rights to ecological stewardship. Biodiversity conservation is increasingly being linked to securing indigenous and forest people's bio-cultural rights and the protection of their way of life, culture and customary manner of decision-making (Knox, 2014). With many environmentally destructive development practices taking place on traditional lands and severely impacting on native and indigenous communities' cultures, the struggle to conserve the environment is very often intertwined with their struggle for protection. Factors like geographical location, natural resource dependency, historical marginalisation from decision-making and public policies, insecurity of rights to lands, territories and resources, low income, and institutions and customary laws that are not respected by dominant governance systems, make indigenous people and forest communities highly vulnerable to climate change mitigation strategies such as REDD+. As the most universally accepted ethics system in the world, a human rights approach helps focus attention on these situations as well as increasingly detailed legal obligations (Knox, 2014). Moreover, the inclusion of explicit human rights language in current and future climate change policy would serve as a 'bridge' between the climate change regime and international human rights law, prompting states to consider their human rights commitments when implementing relevant mitigation and adaptation policies (Roht-Arriaza, 2010).

HRIAs involve the assessment of 'activities which directly and intentionally aim at changing a human rights situation (such as the activities of a human rights NGO) or activities which may have unintended human rights consequences (such as the activities of a multinational company)' (Bavikatte and Bennett, 2015, p. 166). By calling on the participation of all stakeholders involved in REDD+, the assessment seeks to identify the rights that are not respected, or indications that they might not be respected in the future, so that satisfactory solutions can be found whilst assisting forest-based communities to document the human rights impacts of REDD+ activities as they are experienced. Moreover, HRIAs provide people with an opportunity to contribute to their own development and strengthen direct democracy by giving those affected a platform to express their concerns regarding policies that affect them. The HRIA approach provides a conceptual framework that is normatively based on international human rights standards and operationally engaged in promoting and protecting human rights. This normative framework is built on the UDHR,

the ICCPR, and the ICESCR. In terms of its methodological focus, an HRIA is an evidence-based evaluation of international human rights norms which according to Harrison can be carried out in eight steps: screening; scoping; evidence gathering; consultation; analysis; conclusions and recommendations; publication; and lastly monitoring and review. Importantly, HRIAs can occur before an activity has taken place (ex-ante) or after (ex-post) (Harrison, 2011).

Stages one and two – screening and scoping – frame the assessment by identifying the legal, political and cultural context of REDD+, as well as the affected populations, enabling the identification of possible human rights impacts and the development of key indicators. Stages three and four focus on evidence gathering and consultation. For the study to yield sufficient quality data, significant community-based research should take place in countries where REDD+ activities are taking place in indigenous or forest peoples' territories. Furthermore, HRIAs should be carried out at a number of different sites per country given that the impacts of REDD+ activities will vary among the different communities and indigenous territories. It is also important that HRIAs are not solely aimed at indigenous communities but instead at forest-based communities, given that there are many members of forest-dependent communities who are not technically considered to be indigenous. Stage five involves analysis and assessment of human rights impacts. A key strength of utilising a human rights lens as an analytical tool for impact assessment is that impacts are evaluated against codified legal standards, international norms and governmental obligations. Stage six involves the development of clear conclusions and recommendations and where necessary, a series of policy alternatives. The aim of carrying out an HRIA on REDD+ is to have an effect on actual policy and practice by formulating conclusions and recommendations that decision-makers can act upon. Stage seven and eight of a HRIA involves publishing the results and monitoring. This is a critical part of the impact assessment process as it ensures that those undertaking the assessment can be held to account by rights-holders and other interested parties. HRIAs should not be a one-off event but rather an ongoing process that documents human rights progress over time (Harrison, 2014).

Conducting a HRIA makes a number of potentially important contributions to promoting and protecting the human rights of forest-based communities. Firstly, the HRIA methodology is particularly useful as it uses a set of norms and standards that are based on shared values and, therefore, represent a solid normative foundation on which to base an impact assessment (Walker, 2009). Since the adoption of the UDHR in 1948, the United Nations has constantly reaffirmed the importance of human rights and it has become the most universally accepted ethical system in the world due to its ability to continually adapt to new circumstances without compromising its principles (Knox, 2014).

Recent UN-based developments regarding the human rights of indigenous and tribal peoples such as UNDRIP and ILO 169, as well as other international human rights instruments such as the ICCPR and the ICESCR, are particularly relevant to REDD+. For example, both ILO 169 and UNDRIP provide a strong framework for indigenous people to assert their rights regarding activity on their customary lands. In particular, the right to exercise control over their own economic, social and cultural development by giving their free prior and informed consent for any activities on, or their resettlement from, their lands and their right legally titled land. While both ILO 169 and UNDRIP impose significant obligations on states, 'it cannot be read as requiring them to obtain the consent of indigenous peoples before implementing development projects affecting their lands' (Barelli, 2012, p. 16). Unlike the Rio Declaration and the Biodiversity Convention that suggest that development projects which do not have the support of the indigenous peoples concerned should not be allowed, ILO 169 takes a more pragmatic approach, 'seeking to empower indigenous peoples without, however, going as far as granting them a veto power' (Barelli, 2012, p. 16). Nonetheless, the authoritativeness and legitimacy that accompanies these human rights instruments has guaranteed their prominence (Barelli, 2012, p. 17). Secondly, given that many human rights norms are incorporated into states legal obligations, HRIAs may compel duty-bearers to act to protect the rights of rights-holders (Harrison, 2014; De Beco, 2009). The legal codification of human rights has led to an increasingly large and detailed body of jurisprudence that outlines human rights obligations and also allows courts and other institutions to apply these norms to a wide range of issues. Significantly, almost every state belongs to at least one human rights treaty whilst more than 160 states belong to both the ICCPR and the ICESCR (Knox, 2014). Thirdly, HRIAs require a disaggregation of impacts to ensure that the effects on vulnerable groups, such as indigenous peoples, are identified. Lastly, the human rights approach encourages respect for stakeholder rights to information, participation, transparency and accountability as well as a firm commitment to the improvement of lives and a desire to influence policy and practice (MacNaughton and Hunt, 2009).

Carrying out an evidence-led HRIA on REDD+ would therefore allow for:[4]

- A clear scientific examination of human rights-impacting activities connected to REDD+;
- An in-depth analysis of the legal duties and safeguards placed on national and regional governments with regard to REDD+;
- A thorough and thoughtful human-rights based assessment of the balance of public interest with regard to the uncertain economic

4 Adapted from the methodology utilised by Damien Short et al., 'Extreme energy, "fracking" and human rights', via correspondence on file with the author.

benefits of REDD+ and the potential risk of serious and irreversible human and environmental damage;
- A thorough analysis of the potential human rights impacts of REDD+ on future generations.

The outcomes of the HRIA can potentially make an important contribution to the debates surrounding REDD+. The final report and recommendations will provide those stakeholders involved with the opportunity to engage in a dialogue with various people, agencies and organisations involved in REDD+ both during and after the assessment has been completed. HRIA has the potential to shape how REDD+ safeguards should be measured, reported and verified and help mitigate against the negative impacts of REDD+ on forest-based communities. Furthermore, it can help increase the attention focused on indigenous and forest-based communities who are connected to REDD+ activities and build political will to compel governments and the international community to implement appropriate procedural standards, including assessment, monitoring and verification mechanisms, into the rhetoric of REDD+. Importantly, the published results can act as an early warning system and provide policy makers and governments with valuable information, enabling them to take prompt action. HRIAs could be potentially used as a tool for strengthening human rights in the countries REDD+ operates in by imposing obligations upon states and incorporating them into the design criteria. One such requirement should be that before participating in any REDD+ activities, HRIAs should be carried out at a number of sites within the proposed country by academics or independent think tanks in order to assess the potential impacts of such activities on local communities. An explicit link between human rights and the REDD+ mechanism would allow forest-based communities to rely on the law and guidance developed by human rights bodies as well as provide a legal avenue for action against any violations. It would also enable state parties to identify the relevant measures in the domestic legal order and to build appropriate links between the two. Lastly, an explicit reference to human rights would enable parties to rely on the relevant capacity for monitoring and evaluating REDD+ (Savaresi, 2013).

Conclusion

Although it is still unclear how deforestation will ultimately be addressed in the international climate change regime, REDD+ will undoubtedly play an important role. If designed and governed well, REDD+ has the potential to affect the livelihoods of indigenous communities, most notably by encouraging governments to secure and formalise land tenure, generate revenue that could be used to provide social services in rural areas, create new income opportunities for forest dwellers and maintain forests (Lawlor and Huberman,

2009). However, how REDD+ works in practice is proving controversial, raising complex and emotive issues of national sovereignty, human rights and corruption. Many REDD+ initiatives are at risk of being managed and administered by governments, carbon finance companies and large conservation NGOs, resulting in a top-down approach that would exclude indigenous communities from directly participating in the design and implementation of REDD+ activities as well as from sharing in its benefits. Considerable evidence is emerging regarding the violation of indigenous communities' rights and it is likely that these violations will increase and be felt more acutely as the UNFCCC continues to push REDD+ and the buying and selling of carbon as a climate mitigation strategy. The offset market has undoubtedly created a new class of 'green' human rights abuses, and although as Klein points out, these incidents are increasingly being reported, 'there is no comprehensive data available about these abuses' (2014, p. 222). Only by conducting more research into the actual impact of REDD+ on human rights can these violations be fully identified and rectified.

The reconfiguration of the role of forests as carbon sinks, and the universal commodification of nature through the incorporation of the 'economy of repair' into the rhetoric of sustainability, has had a profound impact on the relationship between the economy and nature. The legitimisation of new green market opportunities, such as REDD+, has created new narratives of landscapes and further diminished the importance of indigenous cosmologies, philosophies and worldviews, creating tensions between indigenous peoples and pro-extractivist interests. Instead of viewing forests as complex lived-in ecosystems that support wide varieties of life and biological processes, entrenched in history and culture, the REDD+ framework has reduced forests to marketised carbon sinks. Indigenous opposition of REDD+ has raised questions regarding the Cartesian philosophy, which has dominated humankind's relationship with the non-human world, whereby the environment is objectified as the 'other'. These questions move beyond concern for the general disregard for the wellbeing of the non-human world and the vulnerability the environment faces as a consequence of human exploitation to include the revaluation of Western ontology and the liberal construction of nature as well as the questioning of Western liberal approaches to human rights and the incorporation of intercultural perspectives. Although indigenous movements are playing a critical role in moving human rights up the climate change agenda, the division between nature and society, whereby humanity and the environment are separate and nature does not have inalienable rights, remains unaddressed. Moreover, there has been little effort made to understand the human rights impact of REDD+ on indigenous communities and their views regarding the programme. Further research into these two areas is needed in order to

fully understand the complex nature of the social-environmental conflicts surrounding climate change policies and also to develop appropriate safeguards that protect and support indigenous communities in forest governance.

Carrying out an HRIA would highlight the fundamental critiques developed by indigenous groups, in particular the effects, impacts and changes brought about by REDD+ activities on indigenous communities' interests, rights and traditional knowledges. Considering the impact of REDD+ in human rights terms would allow indigenous people to make a human rights-based argument centred on their fundamental critiques and bring to light the human rights effects of current climate change policies. An HRIA would help indigenous people demonstrate the cause and effect relationship between REDD+ and the promotion and protection of human rights in a structured way, allowing them to challenge the current framework of the mitigation scheme and lobby for marginalised, disadvantaged and vulnerable groups to be better protected. The process of identifying and documenting human rights violations also brings with it the possibility of holding those who violate indigenous rights responsible and accountable. Furthermore, one of the main critiques of indigenous people has been the lack of consultation and participation in the REDD+ process. Given that consultation and participation of key stakeholders are at the centre of HRIA's and emphasis is placed on engagement with affected people, important lessons can be learned from the carrying out of an HRIA and that can be applied to implementing FPIC in the context of REDD+.

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4. Violence in the actions of indigenous peoples from the Amazon region as a result of environmental conflicts[1]

Magdalena Krysińska-Kałużna

Over recent decades, extractive activities in the Amazon region have drastically intensified. The region is not *terra nullius*, therefore, the rights of people living there should be protected under national and international law. However, in many cases human rights are not being protected and citizens living in the Amazon are increasingly defenceless against large mining interests. This chapter discusses the situation and reaction of indigenous peoples in the Amazon in response to extractive activities carried out without compliance with international human rights law. Moreover, it focuses on the reasons behind the violent actions of and against indigenous peoples from the Amazon region to natural resource extraction projects taking place in their territories. A requirement to act within the boundaries of the existing legal regulations and without using violent means is imposed on minorities dominated by the national society; on the other hand, these same minorities encounter structural, institutional, cultural and physical violence on a daily basis at the hands of the dominant society. Therefore, the chapter sets out to address whether such actions undertaken by indigenous peoples means a rejection of 'Western' ways of doing things, or the opposite – their appropriation? Furthermore, is violence, used by the dominated minority – in this situation – an expression of strength or powerlessness in the face of imposed structures?

The expansion of extractive activities is exerting increasing pressure on uncontacted indigenous groups in the Amazon region. However, what is known about the cultures of these groups is very limited. Thus, the analytical categories used in the later part of this paper that indicate cultural determinants of certain behaviours in Amazonian communities can only have a very limited use in the case of isolated groups. However, despite the small amount of data explaining the motives of these isolated societies' actions, given that these groups are

1 Parts of the text are reworked fragments of an article published in 2011 in Polish but have never been published in English.

facing not only cultural but also physical extinction, their behaviours should be subjected to close analysis in hope of improving their situation.

Isolated indigenous groups, violence and law

There are two kinds of indigenous groups in the Amazon: peoples who are in contact with wider national society and so called uncontacted groups which remain in isolation. There are around a hundred such isolated groups in South America – most of them are found in Brazil, with approximately 15 groups living in Peru. Little is known about these isolated groups, although more information is being gathered as they begin to emerge from the rainforest and attempt to contact other indigenous groups or initiate attacks against indigenous people or 'white' people. Such situations have occurred recently in the Madre de Dios region in south-eastern Peru. In December 2014, newspapers reported that an isolated group called the Mashco-Piro[2] raided the remote community of Monte Salvado which sits on the Piedras River. The community had 50 inhabitants, the majority of whom were absent during the time of the raid, while those who were present ran away and took refuge in a guard post. In their absence, the Mashco-Piro killed the community's animals, destroyed their possessions and stole food.

This was not the first violent incursion carried out by members of this isolated group towards local people in the Madre de Dios region. In December 2011, a Machiguenga man, Shaco Flores, who was from the Diamante village, was killed by the Mashco-Piro, while several other members of the community were injured during the attack. Shaco Flores, who was fluent in the *Piro* language, had attempted to pacify and contact the Mashco-Piro since the 1980s. He had developed a certain level of communication with the group, though always at a distance, and even obtained a few objects of Mashco-Piro material culture including a necklace, a rustic arrow-sharpener made from an agouti tooth and a rubber sphere used in their characteristic head-ball game. However in December 2011, he was killed by a single arrow fired by a Mashco-Piro bowman in the small garden where he had been letting the Mashco-Piro eat crops, and where he had previously interacted peacefully with them (Milanez and Shepard, 2014c). Later in May 2015, the isolated Mashco-Piro tribe also killed a young Machiguenga man from the Shipetiari native community with an arrow (*El Comercio Perú*, 2015).

The Mashco-Piro have been openly hostile towards outsiders on various other occasions. For example, when a group of Machiguenga fishermen encountered the Mashco-Piro crossing the Manu River they 'tried to approach and show

2 Their language belongs to the Arawak family and is currently classified as belonging to the Southern Arawak sub-family. The group that is linguistically and culturally most closely related to them are most likely the Piro (Yiné) from the Urubamba River).

their friendly intentions, but the Mashco-Piro repelled them with a shower of arrows. When they ran out of arrows, they used signs to communicate to them that even though they were out of arrows, if the Machiguenga came any closer, they would use rocks to break their bones' (Milanez and Shepard, 2014c). Such violent events have occurred more frequently during the last few years, and even tourist boats and park rangers have had arrows shot at them by the isolated tribe.[3]

The Mashco-Piro are considered to be a subgroup of the Piro indigenous tribe who have lived in isolation since the rubber boom. It is thought that the majority of isolated groups are direct descendants of those indigenous tribes who fled and hid in inaccessible areas in the jungle to escape the 'white' people and enslavement during the rubber boom era. In 1896, the rubber baron Fitzcarrald and his labourers sailed a steamship across an isthmus connecting the Mishagua and Manu Rivers. Accompanied by a small group of Campa and Piro guides in canoes, they were attacked by native inhabitants known as 'Mascho'. In retaliation, Fitzcarrald and his crew are said to have killed more than three hundred Mashco, burning their houses and crops to the ground and sinking their canoes. A rubber tapper who witnessed the fierce battle described the carnage: 'You could no longer drink the water from the river because it was so full of the corpses of Mashcos and rubber tappers, because the fight was to the death' (Reyna, 1941, cited in MacQuarrie 1992, p. 59, cited in Shepard, 1999).

For the Mashco-Piro, little has changed since the time of Fitzcarrald. They continue to live in an area under threat but this time from illegal drug traffickers and loggers. When disturbing these illegal activities, indigenous groups are being pushed off the land or killed. They are also victims of the so-called *correrías* (invasions/chases) carried out by forestry workers. Loggers, working deep within the forests in areas inhabitated by uncontacted groups, often seek revenge for items stolen from them by indigenous tribes. *Correrías* – as they are known by the residents of border communities – often end in the death of the hunted Indians (Huertas Castillo, 2002; Wahl, 2001). National reserves, established by the state and which should in theory protect these isolated groups, are not in practice fulfilling their role and purpose.[4] 'On the contrary, the potential the territories have in the form of their natural resources, especially mahogany, cedar, gas and oil, and in addition – isolated populations – are all factors that attract a variety of industrial sectors and missionaries exposing indigenous population at risk of contact, which in many cases turns out to

3 Alberto Cherif and Pedro García Hierro indicate that apart from the Parque Nacional del Manú, the Reserva Territorial Mashco-Piro, Parque Nacional Alto Purus and Reserva Territorial Madre de Dios – a territory bordering with Brazil – are all areas across which the Mashco-Piro tend to wander (2007).

4 There are five territorial reserves in Peru.

be fatal' (Huertas Castillo, 2002, p. 111). The anthropologists Felipe Milanez and Glenn Shepard documented the story of the survivors from the isolated tribe of Chitonahua (*Xitonawa* in Brazilian) who fled to Simpatia, a settled Asháninka indigenous village in Brazil's western Amazon rainforest close to the border with Peru, to seek refuge. With the help of *Yaminahua* interpreters, the survivors told the story of how their community was massacred, which was then repeated by Asháninka to the anthropologists: 'Gunshots, many dead. A tall, bald man leading a murderous group of white men, presumably drug traffickers.[5] Survivors escaping into the jungle while elders and children were slaughtered' (Milanez and Shepard, 2014a).

The Asháninka, together with other indigenous peoples, are actively involved in denuncing illegal logging and other criminal activities in the area. Four of their leaders, including a well-known opponent of illegal logging, were murdered in September 2014 by men who intruded onto their land (*Andean Air Mail*, 2015). Illegal loggers and other criminals are killing indigenous people, who have been in contact with national society for a significant period of time and – theoretically – could request help from state or civil society organisations or, at least, inform them of the situation, with impunity. Isolated groups, however, do not have such options at their disposal (Milanez and Shepard, 2014d). The situation has become so tense that even personnel from FUNAI (the National Indian Foundation), a Brazilian government agency operating the Upper Envira River Ethno-Environmental Protection Front, abandoned their outpost following an attack by drug traffickers in 2011. 'It's like walking a razor's edge', said CIMI reporter Renato Santana, describing an atmosphere of fear in the native communities of the Upper Envira River on the Brazilian side of the border. People are afraid of incursions by organised criminal groups and increasingly violent clashes with the isolated groups (Wallace, 2014). In addition, the road being built by the Brazilian Acre state government through these remote areas is contributing to the increasingly frequent sightings of isolated groups. It is being built without any prior consultation with local

5 'The massacre of the Xatanawa on the upper Envira may be connected with the drug trafficking operations of a Peruvian drug lord named Joaquim Antônio Custódio Fadista. Fadista has been arrested twice in Brazil for invading territories occupied by isolated indigenous groups. He was arrested in March 2001, put in jail and then released. He was arrested again in November 2011 by Federal Police, but again freed. He has been charged with drug trafficking in different states in Brazil and also in Luxembourg. The attack described by the Xatanawa emissaries, speaking through Yaminawa interpreters, matches Fadista's modus operandi. Furthermore, when Fadista was arrested in 2011, Federal Police found part of an indigenous arrow in his bag, and Travassos, who examined the arrow, said that it probably belonged to one of the isolated groups in the region. At the time, he said he "feared the worst," and claimed that the arrow was "proof of genocide". Since this arrest was made, however, no further investigations have been carried out by Brazilian or Peruvian police. The new testimonies of the Xatanawa should provide pressure to re-open these investigations' (Milanez and Shepard, 2014b).

interests groups or with FUNAI. This road puts indigenous communities living in this region at grave risk.[6] Furthermore, the state oil company Petrobras is prospecting for gas in the state of Acre. Both activities are provoking significant tensions among indigenous peoples.

There is evidence to indicate that uncontacted tribes like the *Kawahiva* isolated group in Mato Grosso view all non-natives as mortal enemies (Wallace, 2014). It is also more than likely that isolated groups on the Peru-Brazil border share the same attitude. These isolated groups are not familiar with the universal codes which operate within the framework of national societies. They are however accustomed to the behaviours of certain segments of said society – and these segments use violence as a primary tool during contact. Representatives of these segments require indigenous territories and resources, whereas natives are treated by them like an obstacle which should be eliminated. For these natives it is their first contact with the national community and for some people from isolated groups, the last one. The only types of behaviour of people from the dominant society they have come into contact with are based on violence. We do not know the cultures of isolated societies but it is reasonable to assume that they act violently during contacts with the outside world because of the way relationships have been established with them by loggers and drug traffickers, especially when we recall the stories regarding contacts with isolated groups (see Hemming, 2003).

As previously mentioned, there are reserves in Peru established to protect isolated indigenous groups from threats from the outside world and agents of the national society. This is in accordance with Convention 169 of the International Labour Organisation (ILO 169), one of the most important legal instruments of indigenous peoples, which was ratified in Peru in 1994. The right to land is one of the fundamental rights that Convention 169 is dedicated to. It recognises the right to ownership of traditionally occupied land by indigenous peoples, and to use lands to which they have traditionally had access for their subsistence and traditional activities, even if these lands are not exclusively occupied by them. ILO 169 also contains provisions regarding indigenous peoples' rights to natural resources located in their territories and the requirement for prior consultation with regards to the exploration and exploitation of minerals in these areas. Although the Convention does not directly refer to indigenous peoples living in isolation, Article 14 states that governments should pay special attention to the situation of nomadic peoples

6 'According to FUNAI agent Antentor Vaz, 114 of the projects currently slated within the Brazilian governments PAC infrastructure development plan will affect regions inhabited by groups in voluntary isolation or recent contact. In all, 33 locations where isolated groups have been registered—nearly half of the 69 registers—are at risk of being affected by these big government projects. FUNAI has established so far a total of 12 Ethno-Environmental Protection Fronts to protect territories with isolated populations' (Milanes and Shepard, 2014b).

and shifting cultivators in this respect, a characteristic that also applies to the isolated indigenous groups (Zarzar, 2000, p. 51). Interpreting Convention 169 in the context of the rights of these groups, Christian Ramos Veloz posits that, 'in the case of isolated peoples (...) governments should establish and designate territories where these peoples have lived for centuries, in order to effectively guarantee their protection and – finally – their survival as peoples' (Ramos Veloz, 2007, p. 318).

In 2006 in Peru, the Act (No. 28736) on the Protection of Indigenous or Aboriginal Peoples in a Situation of Isolation or Initial Contact (*Ley para la Protección de los Pueblos Indígenas u Originarios en Situación de aislamiento y en Situación de Contacto Inicial*) was passed. Designed to protect indigenous groups, the act defines those living in isolation as well as those peoples in the situation of initial contact under Peruvian law. However, it also allows mining activities to take place in areas inhabited by isolated peoples, reduces their land rights and makes procedures aimed at proving the existence of isolated groups, their identity, and numbers more difficult to carry out (Huertas Castillo, 2007, pp. 52–3). The document finally approved by Congress significantly differed from the proposals submitted by non-governmental organisations, and included the allowance for mining activities 'under certain conditions' and/or 'in the interest of the nation'.[7] The term 'interest of the nation', being a very broad and hard to define concept, allows for the continued expansion of extractivist activities and has become a tool for justifying violations of the provisions of ILO 169. Although indigenous groups living in voluntary isolation and their territories should be protected by the state because they cannot advocate their own rights and are highly vulnerable, this is currently not happening. With the state not fulfilling its obligations to these indigenous tribes, violence is becoming a commonplace within isolated societies. Furthermore, evidence indicates that their violent actions toward the 'other' are a result of the relationship type established with them by the national society and its agents.

7 The UN Special Rapporteur on the rights of indigenous peoples, James Anaya, in his report 'The situation of indigenous peoples' rights in Peru with regard to the extractive industries', published in 2014, states: 'Official policy must be in principle opposed to extractive activity in territories inhabited by indigenous peoples in a situation of isolation or initial contact, and must ensure that extractive activity is permitted in such territories only in exceptional cases, where there is clear evidence of a justification founded on strong public interest, and only in conditions in which the rights and well-being of these peoples are safeguarded. For such exceptional cases, the Government must strengthen the application of its protection system through the development of suitable plans, data bases and monitoring mechanisms. While the Government should adhere to the principle of no contact in relation to groups in isolation that reject contact, it should develop special protocols for the consultation of indigenous groups seeking initial contact who might be affected by the extractive industries, in order to ensure that these groups enjoy their rights of participation and self-determination in relation to the territories they inhabit; and such special consultation protocols should be adjusted to the particular circumstances of each group' (UNHRC, 2014, p. 20).

Habitus and different aspects of violence

The second type of indigenous groups found in the Amazon are those that have been in contact with the national society. These indigenous groups have also carried out violence involving the killing of people in conflicts over land and resources. When seeking answers as to why these violent acts occur, it is important to remember that this second type of indigenous groups have remained in contact with national society and form a part of society. Therefore, unlike uncontacted indigenous groups, these indigenous communities are aware – to various extents – of the law and court system of the country in which they reside. In trying to understand the reasons that determine such dramatic action, I focus on two cases: the Awajún and Wampis from Peru and the Cintas Largas Brazil.

The first case study examines the massacre of a group of indigenous protestors in northern Peru. Over 50 days of peaceful protests and blockades initiated by indigenous peoples on the highway near the town of Bagua in the department of Amazonas in Peru ended in June 2009 after the police started shooting at demonstrators, resulting in the death of 33 people. Ten civilians were killed alongside 23 policemen, while about two hundred people were injured in these events. Among the dead policemen were 11 hostages being held by the protesters at Outpost No. 6 in Imaza. The second case is the attack carried out in 2004 by the Cintas Largas indigenous people from the western Amazon basin in Brazil on a group of illegal diamond prospectors operating in their territory, resulting in the death of 29 people. It is my opinion that these events can be better understood by using two sociological categories: cultural violence and habitus.

Johan Galtung, a Norwegian sociologist, dealing with the analysis of the causes of violence in societies states that direct, physical violence, is only the tip of the iceberg, with the foundation being cultural violence and structural violence. Cultural violence is associated with a specific cultural paradigm which regulates socially expected behaviours. This adjustment is carried out directly when these patterns are conscious or in alternative way when they are not. A culture in which attacking 'the other' is seen as the norm will allow for the existence of structural and physical violence. Structural violence, in turn, is the sort of violence, which, with the use of social institutions or structures, prevents certain groups from satisfying their basic needs. Direct violence – Galtung writes – is an event; structural violence is a process of changing intensity; cultural violence is a constant, an invariant. It remains virtually unchanged for long periods of time, due to the slow transformation within a given culture. 'By "cultural violence"' we mean those aspects of culture, the symbolic sphere of our existence – exemplified by religion and ideology, language and art, empirical science and formal science (logic, mathematics) –

that can be used to justify or legitimate direct or structural violence' (Galtung, 1990, p. 291; 2004).

According to Galtung, conflict is something natural for societies, but if it is not transformed it results in violence. 'Peace' often means a period of 'ceasefire'; an interval between periods of violence. Such interruptions do not mean real peace. I am of the opinion that this is what is happening in many parts of Latin America, including Peru. Galtung's concept might be useful in explaining the events taking place there, for instance the occurrences in Bagua. 'In a conflict, the use of force as a mechanism to solve incompatibilities between the parties involved should be avoided, since it may only lead to violence' (Horovitz Rosenblum, 2006, p. 4). To ensure peace, the best and most effective tool is to prevent violence through the use of social and legal mechanisms and support of institutions. As Galtung argues: 'If we limit ourselves to simple conflicts with only two goals, held by the same party or by different parties A and B, then there are always five possible outcomes, central to the TRANSCEND approach:

> [1] A gets all, B gets nothing (victory/defeat)
>
> [2] B gets all, A gets nothing (defeat/victory)
>
> [3] A gets some, B gets some (compromise)
>
> [4] A gets all, B gets all (positive transcendence).
>
> [5] A gets nothing, B gets nothing (withdrawal, but it could also be negative transcendence, going beyond the contradiction)' (Galtung, 2002, p. 8).

In my opinion the Cintas Largas from Brazil and the Awajún who protested in Bagua, Peru, hoped that they would have 'received something' during the lengthy process of conflict resolution (preceding the violence which later broke out) however, what occurred was more like the situation where 'A gets all and B gets nothing'.

Another concept which could prove helpful in understanding the occurrences I referred to is the notion of habitus developed by Pierre Bourdieu. Habitus is 'a system of acquired dispositions functioning on the practical level as categories of perception and assessment or as classificatory principles as well as being the organising principles of action' (Bourdieu, 1990, pp. 12–13). It is an adaptive mechanism, acquired during the course of socialisation. Its formation is based on implementing the external environmental structures (Jacyno, 1993, pp. 17–29). It becomes the matrix of perception, thought and action (Bourdieu, 2004, p. 45), and consists of cognitive resources, operational expertise and motivational systems. 'Acquired through experience, cognitive schemata are organising all the processes which determine the perception and subjective view of the world' (Jacyno, 1997, p. 28). Habitus is therefore both structured and

structuring. It is historically conditioned and deeply internalised. As second nature and as such forgotten as part of history, it is the active presence of the whole past of which it is the product. Habitus is – according to Bourdieu – the principle generating strategies of the subjects. It is practical rationality; it is creative and inventive, but only within its structures (Jacyno, 1997, p. 22). It is a society written into the biological body of the individual (Bourdieu, 1990).

Bourdieu uses the concept of habitus for explaining reproduction and change in society. He asks how the social order is possible and comes to the conclusion that every order is produced and supported by daily practice of illusion. Illusion is a category defining the effect of practices that makes the world commonly shared which means that everything is an ideology. Habitus shapes the experience of the obviousness of the social world. It comes from adjustment of the cherished hopes and the chances for success of the undertaken measures. With the help of habitus, we can determine the conditions for the creation of compatibility between the objective possibilities of action and the subjective aspirations (Jacyno, 1997).

Yet, a shift between objective and subjective structures may happen. It deprives participants of the possibility of a smooth move in the world and leads to alienation. And this – according to Bourdieu – may happen to whole societies. The past continues actively in the present and social life is a game in which we have specific competencies – habitus. If our competences are not adequate we can be excluded from the game. 'Educated disposal system, which was previously efficient, becomes the basis of inadequacy and sentences to life beyond the prescribed social order identified by Bourdieu as necessity of duration and acting in accordance with a certain rhythm' (Jacyno, 1997, p. 36). Conflict of different rhythms of time applies in particular to the societies that experienced a confrontation with modernisation. The sense of actions becomes like a dead, forgotten language (Jacyno, 1997, p. 36). Habitus, which was used for immediate decoding, cannot comply with its role. But this does not mean that it cannot be used, especially when efforts to adapt to new objective structures fail. I argue that the concepts of Galtung and Bourdieu are usfeul in analysing the tragic deaths of the *garimpeiros* in the Reserva Indígena Roosevelt, Brazil and provide a better understanding as to what happened in Bagua, Peru.

Drama in Bagua

On 5 June 2009, the police attack on the highway stretch known as the Devil's Curve ouside the town of Bagua ended the road blockade by the Awajún (Aguaruna) and the Wampís. The blockade was a continuation of protests which were organised by the indigenous organisation AIDESEP (Asociación Interétnica Desarrollo de la Selva Peruana) against the Peruvian government

and began in 2008. The indigenous groups involved in the blockade were frustrated by the government's decision to open up the Amazon to multinational corporations and were worried about the environmental impact of such measures. Feeling ignored and not listened to, protestors took action and set up a roadblock to cut off access to the Amazon jungle.

The area occupied by the Jivaro indigenous people is found in the headwaters of the Marañon River and its tributories, divided by the Cordillera del Condor moutains. Part of the Jivaro people, both the Wampis and the Awajún tribes have ancestral lands in this area. In 1995, a brief conflict broke out between Ecuador and Peru over the Cenepa River. A peace treaty signed between the two countries in 1998 agreed on the creation of areas of environmental protection on both sides of the border. There was a plan to create a national park on the Peruvian side. The natives agreed to this proposition, even though the creation of the park meant giving up the possibility to obtain legal title to parts of traditionally used lands. They agreed after taking into account the national interest and under the condition that these areas will indeed become a protected zone, whilst the community would receive legal titles to other areas situated on their traditional lands.[8] The authorities promised such measures, but failed to follow through on their word by issuing licenses for gold mining on traditional indigenous territories, which, according to the agreement, were to be protected. As it turned out, authorities had been discussing mining operations in the area even during the peace talks between Ecuador and Peru (Equipo de Investigación de ODECOFROC, 2009).

On 28 November 2005, ODECOFROC (Organización de Desarrollo de las Comunidades Nativas Fronterizas del Cenepa) sent a letter to the Minister of Energy and Mines stating that the Awajún and the Wampís did not want minerals or gold found in their territories exploited (*cualquier aprovechamiento*) because of the environmental impact – the contamination of water, soil, forest – and health implications for people living there:

8 It is interesting to read what Galtung wrote about this conflict recalling five possible outcomes of conflict (as previously discussed): 'An example: Ecuador and Peru have a conflict over a zone in the Andes. To obtain [1] or [2] a war is a classical instrument. To obtain [3], dividing by drawing a border, international law or war can be used (border=cease-fire line). [4] could be to do nothing (which they had done for a large part of 54 years), or to give the zone to the indigenous or an intergovernmental organisations, like the UN, the OEA. And [5] could be a "binational zone with natural park" (as proposed by this author, the outcome in 1998). The first two outcomes are extremist, privileging one party only, often associated with violence. The next three outcomes are symmetric, giving nothing, something or everything to both. They can often be combined in a "peace diagonal". The other diagonal, Compromise, or else Fight it out! (the "war diagonal") is frequently encountered. The listing above has five possible outcomes, and they can be combined. Many people (including politicians), however, may have none of them on their mind. The whole conflict landscape is foggy, no points, no paths. Only A and B. And violence erupts' (Galtung, 2002, p. 8).

> We inform that the Awajún-Wampis people from the Cenepa have accepted and continue to work with the Peruvian state to create the National Park in the Cordillera del Condor and for that we have discussed for more than two years in the participatory process working together with INRENA and Conservation International primarily because we believe that it is only consensual way to ensure the intangible conservation of this area known as 'Ichigkat Muja' National Park which is considered by us as a sacred place and a part of our culture alive, so the idea to exploitation of gold in the Cordillera del Condor represents not only an act of offense but is also sacrilege for us (Equipo de Investigación de ODECOFROC, 2005).[9]

However, the letter failed to have an impact on the Ministry's decision to mine for gold in Awajún-Wampis territory. Such was the determination of the government to proceed that INRENA (the Peruvian National Institute of Natural Resources), which had stated in 2005 that mining in the Cordillera del Condor was incompatible with Peruvian law, was forced to amend its technical opinion in favour of the mining project by the Ministry of Energy and Mines, Joint Command of the Armed Forces, Ministry of Defence and the Foreign Ministry (Equipo de Investigación de ODECOFROC, 2009, p. 32).

The situation deteriorated rapidly in 2008 as the government ceased dialogue with the protestors and as President Alan García, following the signing of the free trade agreement between Peru and the United States, passed a number of new regulations allowing US companies access to the Amazon to develop natural resources. The decrees implemented violated the rights of indigenous people established both under the 1993 Peruvian Constitution and also under treaties, such as ILO 169, which Peru had signed guaranteeing prior informed consent by indigenous communities on projects involving their land, and the safeguarding of natural resources on indigenous lands. One of the most contested decrees was No. 1015 which faciliated the sale of indigenous communal lands by reducing the quorum required for agreement on the expropriation of land from two thirds to half the votes of community members. James Anaya in his report stated that:

> the constitutionality of some of the decrees and/or their compatibility with the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), which has been ratified by Peru, has been called into question by various parties, including the Office of the Ombudswoman, the Multi-Party Committee, the sub-working group of the Congressional Agriculture Committee set up to consider legislative decrees relating to the agricultural sector, Constitutional Committee of Congress and a number of non-governmental organizations (UNHRC, 2014, p. 5).

9 I received the email with the text of the letter to the Minister of Energy and Mines through the Ashaninka mailing list.

The Awajún and the Wampís belong to the wider 'block' of the Jivaro culture from Ecuador and Peru. They were best known from the *tsantsa* ritual – the shrinking of slain enemies' heads. Jivaro traditionally conducted two types of war –'intratribal' and 'intertribal'. Philippe Descola claims that during the years 1950–70 the war of the northern Achuar, who also belong to the Jivaro and live between Peru and Ecuador, was the cause of death of every other man and one in eight women, probably the highest possible rate in societies of this type (Descola, 2006, pp. 273–302). As late as the 1960s the Achuar people were still victims of head hunting. The exact description of the principles that governed the Jivaro war is outside the scope of this paper, but it is important to note that, according to Descola, the beginning of the conflict in the Jivaro culture stems from the breaking of the alliance (Descola, 2006, p. 287). Violent exchanges were the normal method of intratribal dispute settlement (associated with the exchange of goods, women and the need for revenge in the event of the death of a relative). In addition to the aforementioned conditions an important role is played by the ideal of masculinity which celebrates the virtues of a warrior. As Descola writes, 'a man announces the death of one of the family members in the following words: "X killed me in such and such circumstances"' (Descola, 2006, p. 290).

The Awajún and Wampis warlike behaviour was exploited by the Peruvian state and both groups were assigned to guard the border between Peru and Ecuador. Territories inhabited by these groups – the Cenepa river valley – were up until the signing of a peace accord in 1998 an area of contention between Peru and Ecuador. Difficult access to the Cordillera del Condor meant that the assistance of the local population was of crucial importance to the army. During the conflict of the Cenepa in 1995, a military branch called *Los Yahis* was created, comprising men from the Awajún and Shuar Wampís tribes. One of the commanders wrote, 'with their invaluable assistance in the logistical activities of our troops they contributed to the final victory, for which many of them have devoted their life' (Equipo de Investigación de ODECOFROC, 2009, p. 35). The most invaluable role of the indigenous people during the war of the Cenepa was to detect mines and the presence of enemy soldiers and also to identify poisoned water sources.

The 20-year civil war was a particularly violent experience that impacted on all Peruvians, including indigenous peoples. One of the outcomes of the conflict was the formulation of so-called self-defence forces, or *rondas*. *Ronderos*, who formed the Sierra de Cajamarca troops to fight cattle thieves, among other things, supported the colonists on Awajún lands. The settlers did not want to leave these areas, despite court rulings (including those made by the Supreme Court) ordering them to leave the territory belonging to indigenous communities. In May 2001 a massacre occured in the community of Flor de la

Frontera when 150 Awajún attacked a settlement of illegal settlers located on their land, killing eight adults and seven children. According to the available information, the Awajún elders of the San Jose village organised the massacre. They had previously ridiculed the younger leaders for their 'ineffective methods' to remove the colonists through the aid of courts and police.

Prior to these events taking place the Awajún could not count on the support of the Peruvian authorities. In the mid 1980s in Chamikar, a settlement on the river Nieva, a colonist invasion took place with the support of the army. The settlers declared that the areas adjacent to the road going through the Awajún territories belonged to them. What constituted where the 'adjacent areas' ended was loosely determined by the settlers. Although the administrative authorities confirmed that the land belonged to the Awajún, they did nothing to remove the colonists. In response the Awajún destroyed around 60 houses. During these incidents, many people, both colonists and indigenous people, were wounded. The Awajún leader Damián Tibijan was sent to prison for the massacre; however, after serving his sentence he was murdered shortly after his release (Chirif and García Hierro, 2007, p. 144). These, and similar events, certainly did not help strengthen the Wampis and Awajún faith in the effectiveness of Peruvian law. It can be assumed that these doubts about the effectiveness of the new habitus and repeated betrayals (it should be remembered that betrayal is the main cause of revenge in the framework of values which operated in the traditional culture of the Jivaro) underpinned the events of June 2009. The Bagua protest was the culmination of a long-running conflict over land and resources (Krysińska-Kałużna, 2011).

The Cinta Larga and *garimpeiros*

The Cinta Larga (in Portuguese: Broad Belt; endoethnonym: Matetamãe) inhabit the states of Mato Grosso and Rondônia. The first peaceful contact with them was initiated in 1968. Before that they had experienced extraordinary – even for those times and that region – cruelty from the hands of the nation. During the World War II the acquisition of rubber tree plantations in Malaya by Japan was the cause of an endless circle of violence in the western part of Rondônia. The area was extensively explored by rubber prospectors, companies importing colonists and adventurers of all kinds. 'Hundreds of *seringueiros* were brought from north-east Brazil. Known as "Rubber-Soldiers"', many of them tried to build their own, private rubber empires (Hemming, 2003, pp. 297 and 299). A further illustration of this prevailing relationship can be found in the history of a *seringueiro*, who in 1963 set off on an expedition to seek retaliation and revenge against the indigenous groups who had assaulted 'his Indians'. An attack on an indigenous village killed nine of its inhabitants, mostly women and children. The three surviving women and four children

were forced to sit in a row and were subsequently killed so not to leave any witnesses of the massacre. Another rubber collector – pretending to be part of the Indian Protection Service (SPI) and using its method of initiating contact with indigenous populaces – left presents out for the Uru-eu-waw-waw group. When they came, he shot them from his hiding place. 20 Orion people were also murdered this way at a place where Indian Protection Service employees usually left gifts for them (Hemming, 2003). John Hemming quotes an assistant inspector of the SPI who said that rubber-tappers 'gouged out the eyes of the Indian children and then left them abandoned in the forest' (Hemming, 2003, p. 298).

Among the neighbours of the above-mentioned indigenous groups were the Cintas Largas. In 1963, a member of the rubber gatherers company Arruda e Junqueira rented a helicopter and dropped bags filled with sugar into a Cintas Largas village. When the Indians opened the packages, the helicopter flew in again, this time dropping dynamite. The village was destroyed. Soon after another massacre took place. 'This bombing was followed by a land raid to exterminate another Cinta Larga village. One gunman, Ataíde Pereira, was bitter because he was not paid his promised $15 fee for the raid. He confessed to the Jesuit missionary Father Rdgar Schmidt, who tape-recorded the chilling testimony and gave it to the SPI' (Hemming, 2003, p. 128). Six white men attacked another village of the Cintas Largas. Only two or three Indians managed to escape and the rest were murdered. Many atrocities were committed during this attack. As Pereira testified:

> He tied the Indian girl up and hung her head-downwards from a tree, legs apart, and chopped her in half right down the middle with his machete. Almost with a single stroke I'd say. The village was like a slaughter-house. He calmed down after he'd cut the woman up, and told us to burn down all the huts and throw the bodies into the [Aripuanã] river (Hemming, 2003, p. 228).

In 1967 the Minister of the Interior appointed a commission headed by the Attorney-General to investigate irregularities in the Indian Protection Service (SPI). Over a year of work resulted in a detailed report, and by the end of the 1960s a court trial was held against several SPI officials. After the facts and information hidden by the Service about what had actually happened to the indigenous groups in the interior of Brazil came to light, the attorney-general Jader Figueiredo was reported as saying that 'more shameful than the corruption is the fact that Indians have suffered tortures similar to those of the [Nazi concentration] camps of Treblinka and Dachau' (Hemming, 2003, p. 227).

However, the report was believed to have been destroyed by a fire shortly after its release, with most of the document only recently being rediscovered.

It is currently being examined by the National Truth Commission (which is investigating human rights violations between 1947 and 1988). 'Although the document has not been made public since its rediscovery, the Guardian has seen a scanned copy in which Figueiredo describes the enslavement of indigenous people, torture of children and theft of land' – Jonathan Watts and Jan Rocha write (Watts and Rocha, 2013). Journalists comment that torture was commonplace. The most widely used technique was 'the trunk', which was used to slowly crush the ankles of its victims. *The Guardian* quotes Marcelo Zelic, a human rights lawyer who discovered the document:

> This documentation, which was hidden for many decades, sheds light on conflict situations that endure today. For states like Mato Grosso do Sul, Paraná, Bahia and Amazonas, it contains lots of information that can help reveal once and for all the truth behind many forms of violence against Indians today and provide an insight into the real owners of the land in dispute. (Watts and Rocha, 2013).

By the time peaceful contact with the Cintas Largas was established, they had faced multiple invasions by white settlers. Initially these settlers came to obtain mahogany and later, when it was discovered that the Roosevelt reserve areas inhabited by the Cintas Largas had rich deposits of diamonds, they came to mine. In 2003, representatives of the Commission on Human Rights of the Brazilian parliament came to visit the *Terra Indigena Roosevelt*. The situation they discovered was critical. Not only was the cultural survival of the Cintas Largas threatened, but also their physical survival. After intensive contact with loggers and *garimpeiros* (wildcat prospectors), they became addicted to the goods of 'white people'. In exchange for allowing *garimpeiros* to enter their reserve, they had received money and other gifts that gave them the external appearance of living in prosperity: cell phones, satellite dishes and all kinds of electronic equipment. They also had extensive access to firearms. Within the reserve helicopters were found as well as drugs and alcohol. Traditionally, men in this culture can have more than one wife, thus Cintas Largas sought partners in the cities, where – often drunk – they were attacked and sometimes killed. Many of them also died in car accidents.[10]

At the beginning of the 21st century the Cintas Largas leaders realised that their group was beginning to disappear. Therefore they decided – with the help of the government agency FUNAI – to throw diamond prospectors off their land. Unfortunately, this turned out to be impossible. *Garimpeiros* could count on the help of the governor and local authorities, while police and other services were corrupt. Community members were often sent to prison

10 Report of the Human Rights Commission of the Brazilian Parliament 'Conflitos em terras indígenas, Relatorio das visitas a terras indígenas e audiências públicas realizadas nos estados de Mato Grosso, Mato Grosso do Sul, Rondonia, Roraima, Pernambuco, Bahia e Santa Catarina', 7–17 October 2003.

for offences against 'whites', but no 'white' was ever imprisoned for similar offences against them. The Cintas Largas received significantly higher penalties for the same offences for which 'whites' were treated much more leniently. For example, for the illegal possession of firearms indigenous people were forced to pay fines up to 10 times higher than those paid by 'whites'. In 2004, there were about 1,400 Cintas Largas on the reserve and around 5,000 illegal miners. That same year the Cintas Largas attacked a group of them and subsequently killed 29 people.

Conclusion

Peace has never been established between the 'whites' and the Cintas Largas in Brazil and the Awajún and Wampís in Peru. At best the situation could be described as a truce. In the case of isolated groups not many details are known, but what is certain is that their rights are not protected, they live in a constant danger from the agents of national society and that the risk of direct violence has become the norm. When an isolated group establishes contact with a national society, although this occurs rarely, a huge functional change occurs within that group. The indigenous societies need a 'key' to understand principles on which the functioning of the 'new world' is based. 'Answers' to the question on how it functions are provided by national societies through agents of contact. However, these vary greatly, depending on the nature of the 'messenger' transmitting a response. When such 'messengers' use ruthless and brutal physical violence, including the murder of autochthons, it can be expected that the response from the isolated group is also going to be violent.

In the case of the indigenous groups discussed in this chapter, the conflict has never been transformed, thus giving rise to more potential tragedies. The Cintas Largas, for example, have been victims of cultural violence on the part of the national society. Building up the tension between *garimpeiros* and the natives, local newspapers wrote that they were once cannibals and printed out the old photos that would suggest that little had changed since that time period. The Cintas Largas have also been targets of physical violence, albeit not on a scale comparable to what was taking place 40 years earlier. However, it was the everyday experience of members of this ethnic group whenever they appeared in the towns (Krysińska-Kałużna, 2011). In the case of both the Cintas Largas, and the Awajun and Wampís, the government cared little whether the conflict escalated into direct violence or not. Moreover, in both cases the courts favoured the 'whites'. In Brazil nobody protected the indigenous communities from the invasion of the *garimpeiros* (FUNAI officers were powerless), whereas in Peru, the army helped the illegal settlers while the Peruvian administration failed to observe any judgements that were in favour of indigenous groups. All these activities of the agents of dominant society were related to different

aspects and dimensions of violence. The alliance between the Jivaro and the government, agreed during the war between Ecuador and Peru, provided the first opportunity to end the conflict with a win-win situation 'when A gets some and B gets some'. However, the promise of 'getting something' turned out to be false.

National societies require indigenous groups to adapt to the predominant standards of civilisation. Such a standard is – in theory – non-violent resolution of conflicts and respect for human rights. But this is only in theory. Practice – as is the 'traditional pattern' of some cultures of the Amazon – involves the use of violence. Before contact was initiated with the Cintas Largas, they were a people who had been involved in numerous wars with their neighbours. As we know, the Awajún and the Wampís were in a similar situation. When the new 'adaptive mechanism' fails, any attempts to act based on the application of rules imposed by the new culture proves to be irrational because they remain completely ineffective. It can therefore be assumed that the murder of *garimpeiros*, who were perceived as intruders on the Cintas Largas territories, was a return to their previous habitus, which is a matrix of perception and of action. Dichotomy between what appears to be possible and what appears to be impossible is a rule in a subjective representation of the social order. When our habitus ceases to prompt us with the right answers and actions, we cannot accept the challenge and then we are excluded from the game, and this is equivalent to social non-existence. When there are no possibilities of reaction and response, this means the 'loss of the world' (Jacyno, 1997, pp. 29–30). The Cintas Largas did not want to be 'excluded from the game' in the same way as Jivaro did not want. Both societies were powerless. It seems that they faced the dilemma which Bourdieu calls the dilemma of Don Quixote – 'a life without dignity or the dignity of non-life' (Jacyno, 1997, p. 37).

Amazonian indigenous groups have experienced violence and been subject to systemic betrayal by the authorities, army, police and courts. They tried to apply the methods of action officially promoted by the 'white world' and – in theory – used by it. But the use of these types of actions proved to be ineffective. The key proposed by the dominant culture, based on the rules of said dominant society, did not open any doors, did not solve any problems that were to be solved. In this situation, an attempt to 'open the door' with the 'old key' should not come as a surprise. This key is the matrix functioning in the 'traditional' cultures of these peoples. The use of cultural and physical violence against the inhabitants of the Amazon by the authorities and other actors from the dominant community supports the reproduction of a pattern of war. Thus answering the questions posed at the beginning of this article we cannot say that violent actions undertaken by indigenous peoples mean a rejection of 'Western' ways of doing things, because the various dimensions

of violence are used by dominant 'Western' society in their attitude toward indigenous peoples.

If the conflicts taking place in the region are not transformed, then – according to Galtung – 'peace' will still only remain in the form of a 'ceasefire'. However, perhaps, this state – of permanent ceasefire – is not ultimately an undesirable state. Arjun Appadurai writes, 'instead of saying that minorities are causing the violence, it would be more accurate to say that violence, especially at the state level, requires minorities' (Appadurai, 2009, p. 51). Appadurai believes that the state, forced to make concessions on their sovereignty by globalisation processes, 'acts out' by treating minorities as a threat. 'The old joke about explosions of peace has become a sobering fact in modern society' (Appadurai, 2009, p. 23). Societies in which peace is only a temporary absence of war, are in danger of a situation where – according to Achille Mbembe – violence or the possibility of it is something commonplace, regular and just a matrix (Mbembe, 2003). Breaking the pattern requires strength. When one is powerless, all that remains is to surrender to it (Krysińska-Kałużna, 2011).

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5. Neogeography, development and human rights in Latin America

Doug Specht

> 'We should now talk of people making not their own history but their own geography' – John Urry

Latin America has a long history of exploitation and oppression of populations, moreover it has been suggested that the 'postcolonial' quest for rapid national 'modernisation' has led to an increase in the extractive, neoliberal, policies of corporations and governments working across the region (Bryant, 1998, p. 85). Rarely, however, has this been taken lying down. Social movements and activist groups are operating all across the region, fighting for human rights, land rights, environmental rights, indigenous rights and many more in the face of corporate and government oppression. This strong history of activist movements and the continuing exploitation of the region makes Latin America a suitable location to explore the way knowledge is created and disseminated, with a view to promoting social movement organisations (SMOs) fighting for development with a focus on human rights. Coupled with challenging geographies and a rapid uptake rates of mobile and digital technologies, the region presents itself as a prime location to explore the interrelation between those movements, spatial knowledges and the use of geographic information systems.

One of the first times that the notion that human rights and development were intrinsically linked was in the 1995 text 'The Right Way to Development' (Human Rights Council of Australia, 1995, cited in Sano, 2000), yet the concept was not met with universal approval. The idea of development had never previously been based upon the notion of human rights, and the authors were naive in not making a stronger case for their suggestion that it should be. Fast forward just five years, however, and a rather different landscape was unfolding. The introduction of the Millennium Development Goals (MDGs), following the Millennium Summit of the United Nations in 2000, placed the notion of Human Rights at the very centre of the development agenda. Furthermore, the MDGs committed governments to a particular pattern of growth and development, which was equitable and supportive of human rights (Fukuda-Parr et al., 2014). While human rights and human development were

still distinct conceptual frameworks, each with its own intellectual origins and histories, they were finally seen as being related (UNOHCHR, 2006). Despite this seeming advancement, by 2005 they were still only seen as 'ships passing in the night' by many (Alston, 2005). Yet in Latin America, in the face of continuous 'development' at the hands of the US and the West as a whole, the two have been interwoven in the minds of indigenous populations and SMOs for centuries (Escobar, 1992b; Mowforth, 2014). The fight for a more even process of development in Latin America is indeed a fight for human rights; a fight for those things that both the human rights and development frameworks have emphasised: 'the well-being of the individual as the central objective of development; equality and non-discrimination in access to economic and social opportunities; meaningful participation of individuals in decisions that affect their lives and well-being; and adherence to international human rights standards' (Fukuda-Parr et al., 2014). Thus, to continue uneven development, something which has almost come to represent the Latin American condition, is to continue human rights violations across the region.

Human rights abuses caused by uneven development are, by their very nature, an issue of space and spatiality. Development that creates uneven geographies of wealth and power – in themselves an abuse of human rights – is an essential part of a capitalist society, and is reproduced at all scales from the global to the local (Soja, 1989). This story of uneven development is a familiar one, and the way in which some places get richer and other places stagnate, and the way in which well-connected people get progressively better connected relative to the rest, has been well documented (see Castells, 1996; Harvey, 2001; Sassen, 2006; Adams and Jansson, 2012). For Lefebvre, this spatial element of exploitative development is seen as the 'instrument of primary importance'. The control of space and the segregation and division of these spaces into administered and policed areas is in many respects a physical condition of the unevenness of development under capitalism (Lefebvre, 2009). Building upon this idea of 'regional underdevelopment' Soja suggested that it forms 'an integral part of extended or expanded reproduction, creating large reservoirs of labour and complementary markets capable of responding to the spasmodic and contradictory flow of capitalist productivity' (1989, p. 105).

Maps have long been employed in the creation of these uneven geographies, and to control the space of exploitation. From their outset maps were used to demarcate property and value. The oldest surviving map, which dates from *c.*2300 BC, shows the ownership of property in the Babylonian society. Later in *c.*600 BC the Babylonians began to create world maps, omitting the Persians and Egyptians, perhaps the first solid example of mapping-as-power. Through the Enlightenment, the development of 'true' science was often represented in art through the use of the tools of cartography, and the age of exploration led

to the expansion of maps that revealed the territories sought and controlled by dominant Western powers. As the colonial project expanded its way across the globe, Latin America became increasingly mapped and remapped. From 1492 control over these territories was increasingly solidified not just through force and murder, but also through a re-rendering of space through maps, creating a scientific basis for the exploitation and extermination of populations in new-found lands. These maps were more than a mathematical representation of space; instead they embodied the knowledge and world-view of their creators, and sought to support the will of the powerful (Potts, 2015).

If maps then, which outside the fiction of Borges' celebrated story 'On Exactitude in Science', are purely rhetorical devices, that do not merely, or perhaps cannot truly, represent space, but rather shape arguments and create identities and space for the powerful, could it be that counter-maps can subvert this dynamic, giving space for subjugated knowledges? There is a long tradition of making maps that present alternative interpretations of various landscapes and these are often used to reveal implicit relationships between power, control, and spatial practice, and this is a practice that is becoming easier to access through the use of digital tools such as Google Earth (Institute for Applied Autonomy, 2008). This chapter seeks to explore how maps are used to control the exploitation of resources in Latin America, with a focus on Colombia, and the role of counter-maps in redressing these power dynamics, and to question how this might draw us towards a true post-development era.

Post?-development and knowledge

There has been much talk about a digital post-development era, where tools such as big data might revolutionise the way in which development work is done and the way in which local knowledge and understanding is included in this work. Perhaps the clearest example is the establishment of the UN Global Pulse project, headed by Robert Kirkpatrick, an organisation set up in 1998 to explore the way in which data can be used to create knowledge for development projects. This idea of data and knowledge being fundamental to development was in many ways born from the World Bank study 'Voices of the Poor' which concluded that many people desired access to knowledge rather than charity to enable them to move out of poverty (Narayan, 2000, cited in Hordijk and Baud, 2006, p. 671). Furthermore, as the drive towards the Sustainable Development Goals continues, the Sustainable Development Solutions Network (SDSN, 2015) suggests that given the 'breadth and complexity of the SDG agenda, many different types of data will be required (demographic, economic, social, and environmental) with varying levels of coverage' (p. 12). Yet for all this focus on data and its new-found abundance, the route out of underdevelopment has remained a series of hoop-jumping exercises prescribed

by the West and performed by the rest (to paraphrase Niall Ferguson). This form of 'development' continues to offer little in the way of 'advancement'; for the majority of people, although there are of course exceptions, it is clear that the West continues to have a profound affect in 'mapping [the South's] social landscape, sculpting their economies [and] transforming their cultures' both literally and figuratively (Escobar, 1992a). This has important implications when examining the way in which knowledge is created and used in mobilisations of the global South. There appears to be a need to make local knowledge and understandings of local situations more easily accessible and valued in order to support grassroot movements in the global South who seek to have control over their own development, development agendas and territories. According to Dove and Carpenter (2008, p. 4), local people and particularly indigenous peoples have important knowledge based on intimate and prolonged interaction with a given set of biophysical conditions and, as a result, local people are best placed to understand and regulate those conditions in most cases (see also Hurst, 1990; Banuri and Apffel Marglin, 1993; Colchester and Lohmann, 1993).

The continued imbalance of data used, collected and analysed for development projects is perpetuated through the differing weights attributed to knowledges. Certain formulations are considered as 'truth', others as 'false'. 'The work of cultural and political ecologists has demonstrated how subordinate groups are dis-empowered by the characterization of their understandings of the natural world as non-scientific, tradition bound, overly risk-adverse, shaped by superstition, or simply biased' (Goldman et al., 2011, p. 9). In many cases, it is this competition about the legitimacy of knowledge that is central to the way in which disputes over the appropriateness of development projects form and develop. It has long been 'scientific', 'Western' knowledge that has been used to 'settle' arguments, while the problems on the ground manifest themselves in the form of Western scientists 'proving' that certain truths remain.

There is no single definition of knowledge. Nevertheless, an important distinction can be made between information and knowledge. While the former consists of hard numbers, data and facts, the latter involves personal experience (Ackoff, 1989). There is also a large variety of knowledge existing among different actors (Somers 2012, p. 14). According to Hordijk and Baud (2006), to build knowledge from information, context must be added. Since context is influenced by individual perspectives, it affects the meaning and value of knowledge. Further to this, ideas can never be seen as innocent but 'either reinforce or challenge existing social and economic arrangements' (Bryant, 1998, p. 87). Indeed, from a critical theoretical stance it is possible to suggest that knowledge is always there 'for someone and for some purpose'. There is always a connection between the knower and the known and thus it

would be impossible to consider knowledge as 'neutral', but rather it is value-laden and constructed from interests (Hordijk & Baud, 2006, p. 672).

There are essentially two basic analytical models of knowledge-building. The first one is the classical linear model of knowledge, which relies on expert and scientific knowledge systems. The underlying assumption for this model is that codified knowledge is universally applicable, independent of the context in which it is produced (Baud et al., 2011). This perspective has been widely criticised for being ignorant towards social circumstances and existing hegemonic knowledge discourses. The second model recognises the existence of several types and sources of knowledge and understands knowledge building as a social process, 'produced by interactions between researchers, citizens and organizations' (Somers, 2012, p. 14). This second mode of knowledge production lends itself to building counter-narratives through recognising the importance of individual experiences for the building and production of knowledge. Taking this as a starting point for new modes of knowledge construction might enable marginalised communities to own and leverage the same kind of knowledge and data that are so often used as arguments to their disadvantage in policy decisions (Hordijk and Baud, 2006, p. 677).

As has already been alluded to, different types of knowledge are produced by different actors. Van Ewijk and Baud (2009) make a distinction between three different forms of knowledge that might be produced by these actors. The first type is tacit knowledge, which is built up through individual practice and experience. Contextually embedded knowledge consists of technical, economic and political, as well as community-based and social knowledge and is embedded in technical, social and political networks. This form of knowledge is also created through practice, but is more widespread than tacit knowledge. The third knowledge type identified by Van Ewijk and Baud is called codified knowledge and is expressed systematically. Circulating mainly in the academic sphere, a great deal of it being laid down in written documentation. Although this distinction is quite useful for the categorisation of knowledge, it should be noted that none of these forms of knowledge can claim to be universal or 'true', nor independent of the influence of dominant discourses. What is important to note however, is which knowledges are and are not included in each of these forms. It is by 'excluding certain forms of knowledge – such as practical experience and traditional knowledge – that more powerful actors can also exclude the interests of the less powerful: invalidating an argument by contesting the source of knowledge and the legitimacy of the claim' (Hordijk and Baud, 2006, p. 673).

There are numerous actions that can create these knowledges, and numerous artefacts that can contain them. To explore all these and their values is beyond the scope of this chapter; rather the focus is drawn towards the way in which

these knowledges are constructed, codified and shared through cartographic (primarily the PGIS) artefacts.

Maps, neogeography and power

Issues of power over knowledge have persisted in the studies of knowledge construction and dissemination through geographical and cartographic artefacts. Much of the literature points to maps being created through classical linear constructions of knowledge by experts that is then imposed upon the other. This supports the dominant Eurocentric and Western discourse and Western knowledge systems that have been used as 'an instrument of cultural violence on the Third World' and which through their production, accumulation, circulation and functioning permeate rigid power structures (Escobar, 1992b). Recently, however, the field of cartography has moved in directions unimaginable just ten years ago. In the 'last few years cartography has been slipping from the control of the powerful elites that have exercised dominance over it for several hundred years', and while much control is still exercised by organisations such as Google or Esri, spaces have been opening up through reduced costs, alternative platforms and increasingly accessible APIs and interfaces bringing about the conditions for the creation of 'neogeography' and the democratisation of participation (Crampton and Krygier, 2006). Maps are no longer being solely produced and reproduced by trained elite, but along with most other information we create them when we need them ourselves (Crampton and Krygier, 2006). Maps and spatial representations produced by local people have a long history, and very possibly a prehistory (Chambers, 2006, p. 2). All maps have an inherent power and objectives, just as all knowledges have inherent power and objectives. Indeed, maps are often seen a visual representation of knowledge; 'space is fundamental in any exercise of power' (Foucault, cited in Soja, 1989, p. 19). The power held within maps is not necessarily negative, nor does it necessarily need to be removed; indeed if power has repressive affects it also produces subjects who act freely and many problems of politics and power require spatial knowledge (Brewster and Althusser, 2001; Foucault, 1980). New information technologies allow for the challenging of elites, a challenge that should be embraced by social movements rather than feared. Maps may now be much more readily used by people for the production of space and place and combined with the political identities of the people who inhabit the spaces represented by the map (Pickles, 1992), moving them beyond being a purely communicative tool (Crampton, 2001) and expanding their emphasis from the delivery of information to also encompass its exploration. It is this shift to the self-construction of space and cartographic artefacts through new information technologies that has brought around a reimagining of the term neogeoraphy. While not wholly new in its

ideas, neogeography has found a reawakening and redefining since 2006. The term refers to techniques, tools and practices of geography that have been traditionally beyond the scope of professional geographers and geographic information systems (GIS) practitioners (Turner, 2006). Rather, neogeography embodies a diverse set of practices that operate outside, or alongside, or in the manner of, the practices of professional geographers (Szott, 2006). For Goodchild (2009), neogeography goes even further than just changing practices or the inclusion of more people, but also implies a reinvention of geography, in which the traditional roles of expert producer of geographic information and amateur user have broken down, with the amateur becoming both a producer and user. This change in the way maps are produced, and thus the alternative power over maps and what they represent, has significant implications for NGOs and social movements operating within the terms of geographical change and human rights (Crampton, 2001).

Academic cartographic production has often ignored the power relationships of maps, however in a neogeographical age maps must be viewed through the more critical cartographic lens, a discipline that arose during the 1990s, but which has achieved greater prominence in recent years (Crampton and Krygier, 2006, p. 11). There is already an extensive body of literature examining how maps become sites of knowledge and power. Key writers in the field include Harley (1989), Wood (2003) and Pickles (1992; 1995). Pickles views maps as being a production of space and place combined with the political identities of the people who inhabit the spaces represented by the map. Harley was more inclined by Foucaultian thinking, bringing poststructuralism to the world of cartography, which had previously viewed maps purely as a communicative tool (Crampton, 2001). These shifts mean that cartography is now being positioned away from the hand of experts and has expanded its emphasis from the delivery of information to encompass its exploration. This change in power over maps has significant implications for social movement organisations operating against geographical changes and over large areas, allowing for the inclusion of occluded and subjugated knowledges within debates (Crampton and Krygier, 2006). While the differences in power between these types of maps still needs to be considered and addressed, a space for multiple spatial perspectives is growing.

A harmony between the scientific maps of old and newly 'hacked' maps means it is now possible to express a variety of knowledges in co-existence. As Robbins (2003) puts it:

> By simultaneously allowing the expression of a variety of knowledges – those apparently distant as well as those apparently proximate to that of the researcher – with the same tool, and including both those of producers and those of professional planners, this approach to GIS creates a level playing field for comparing knowledge consensus and division. In so doing

> it allows a wider exploration of the cultural and political conditions that direct human understandings of the environment (Robbins, 2003, p. 238).

In this vein, Harley (1989) has suggested that a single map should consist of multiple, competing visualisations. These should not however be created by an expert cartographer, but produced by the users themselves on the spot (Crampton, 2001, p. 236). These 'counter-maps' which express local knowledge in cartographic form can form a powerful tool in promoting the rights of communities (Robbins, 2003). These kinds of mapping exercises have been known to researchers for a long time, and the development of participatory geographic information systems allowed researchers to draw out maps from communities representing the community's world view and priorities. This kind of 'bottom-up' GIS has been lauded as very successful in promoting the inclusion of marginalised communities (Robbins, 2003; see also McCall, 2003; McCall and Dunn, 2012; Rambaldi et al., 2006).

Furthermore, it has been suggested that beyond including marginalised knowledges, GIS can also be used to interrogate knowledge itself, exploring links between production and information, politics and ideas. Robbins (2003) has suggested that while previously GIS has been used to eliminate epistemologies and codify knowledge into set rigors, the fast changing digital landscape and an increase of PGIS, there is a potential that participatory mapping will be at the forefront of breaking down these barriers and opening up new ideas on the production of knowledge itself. Indeed, going beyond pure PGIS, it is possible to 'elicit competing localities and ground truths, and so enunciate and draw conflict to the centre of attention' (Robbins, 2003, p. 249). Much will depend on how GIS technologies are made available to the world, and how much importance 'conventional' science and society is willing to place on these new maps (Chambers, 2006). Yet with the speed of technological advancement, effectively putting PGIS in the hands of billions of people, the role of the researcher as a facilitator and teacher of GIS is becoming less and less important. Therefore the people, the real power of PGIS, are taking centre stage, allowing for a true shift in the way GIS is used, and the way knowledge is created, shared and used.

The power laden within maps has been made clear; however, engaging with marginalised and oppressed communities and fostering new maps that begin to redress the power balance is a more complex task altogether. For starters 'most local people, asked if they can make a map, say no' (Chambers, 2006, p. 6). Yet in reality the ability to make a map, even a stunning interactive 3D map, is now available to anyone with a home computer or smart mobile and an internet connection (Crampton and Krygier, 2006, p. 12). Even without online resources Chambers (2006) found that his reluctant participants were able to produce maps with only limited support, but with enough time to work

it out for themselves. The wealth of resources now available via the internet makes this process even more personal than that experienced by Chambers in 2006, and further removes the need to consult an expert. These new resources are not so much new mapping software but rather a mixture of open source collaborative tools, mobile mapping applications, and geotagging programmes (Crampton and Krygier, 2006, p. 12).

The role of creating maps has become diffused, and thus the power in them spread. There is however the issue of learning how to and where to produce the map, or even why. And although the internet's many resources address this to the converted, to gain the full wealth of knowledge to produce a map of substantive use requires involving as many people in the process as possible. Here participatory GIS plays out its role. 'PGIS practice is geared towards community empowerment through measured, demand driven, user friendly and integrated applications of geo-spatial technologies' (Rambaldi et al., 2006, p. 2). In order for PGIS to work, effective participation is required. This does not mean that the facilitator is required to be on site with the respondents, but involves ensuring that mapping software and apps are built in such a way as to allow for high levels of participation. Software should be simple to use, with the correct language in the user interface, the correct software for all devices and the necessary precautions must be undertaken to protect users and information. PGIS should also have an emphasis on the product rather than the outcome of a map. This changing information and constant adaptation are strengths rather than weaknesses (Rambaldi et al., 2006). Furthermore 'good PGIS practice is embedded into long lasting spatial decision making processes, depends on multidisciplinary facilitation and skills and builds essentially on visual language' (Rambaldi et al., 2006, p. 2).

Participatory GIS or mapping projects focused on community-based and non-mainstream activities are then situated in the second type of knowledge identified by Van Ewijk and Baud (2009): contextual-embedded knowledge. Since community-based knowledge is always related to a specific locality, there is a spatial dimension to that form of knowledge, and it is important to note the effect of this spatial dimension on the formation and validation of this knowledge. Baud points out, that 'spatializing knowledge provides the researcher with different types of knowledge existing within the same space' (2011, p. 10). Furthermore, when discussing the knowledge systems of marginalised communities, the interplay of space, power and framing become increasingly important, and many geographers would argue that the spatial location and context is critical to seeing why the political and knowledge process of these communities develop the way they do (Miller, 2000, cited in Leach and Scoones, 2007). Increasingly however this spatial context is becoming wide and diffuse as links are made between diverse local sites across

global spaces, constituting forms of 'globalisation from below' (Appadurai, 2002, cited in Leach and Scoones, 2007, pp. 13–14).

Knowledge into action

Potts, building on the work of historian Brian Harley, argues that 'cartographers manufacture power' (2015, p. 19). Understanding this, and understanding how that power can transfer to counter-maps is well and good, but moving towards a human rights focused post-development era still requires action in both the production and understanding of these newly revealed knowledges. The use of spatial data by humanitarian and environmental organisations and projects has exploded in the last five years, driven by drastically reduced costs and a proliferation of open source mapping tools and data collection applications. The release of Google's Forest Watch via their outreach project, Map Action's work on tracking the Ebola epidemic, hacked maps such as Harass Map in Egypt, and emerging platforms such as Voz, which maps human and environmental rights, have all helped to highlight the potential of maps and geospatial representations in codifying local knowledge and presenting it in quickly accessible and useable formats. Using a combination of rich data sources, often collected through mobile devices, coupled with advancements in processing capabilities, we are able to turn ever larger, imperfect, complex and often unstructured data into actionable information with increased speed and efficiency (Hilbert, 2013; Burns, 2014). The release of free and open source yet highly powerful and adaptable applications has led to a proliferation of map hacking; the practice of exploiting open-source mapping applications or by combining one site's functionality with another's. These exploitations are possible because of extensible markup language (XML) and application programming interfaces (APIs) (Crampton and Krygier, 2005). This has taken us beyond merely increasing the ease with which spatial data can be digitised, but as the neogeographical age progresses, it is allowing for the repurposing of such spatial data, opening up the concept of geography and cartography and allowing for its 'repackaging' via digital media and the internet (Wilson and Graham, 2013). Foucault may have seen these new developments within digital media and ICT as being able to invert his previous metaphors of the panopticon, which consisted of oppressive self-regulation (Foucault, 2007). Rather these new information technologies allow for the challenging of elites. It is conceded that this reversal is not without its flaws, and it is still possible for corporations to hide malpractices; it is however a step towards holding the bourgeois elite to account through public participation in observing and monitoring through new digital means, turning the mirror back on those in power (Foucault, 1980; Garrett, 2006).

This presents exciting opportunities for NGOs and social movements. Without falling into the trap of technological determinism, these opportunities could be expected to grow further in line with the growth of the technologies needed to utilise geographic information systems and their associated applications and tools (Smith and Marx, 1994). By 2020, more than 70 per cent of mobile phones are expected to have GPS capability, up from 20 per cent in 2010 (Smith and Marx, 1994), leading to a massive increase in availability of spatially located data. The connections between these increases in the accessibility of geospatial digital tools, activism and SMOs, however, is still an emerging field, and one that changes as quickly as it is written about. It is though 'rarely contested that digital media have an impact on civic and political involvement' (Anduiza et al., 2014, p. 1). Exactly what this impact is and what role knowledge creation and use through spatial media play largely remain open questions.

As previously stated, the last eight years have seen significant developments in the worlds of digital media and participatory geographic information systems, and the future promises many more changes. So, what then does the neogeographical age mean in terms of positioning local knowledges, those defined by Foucault as, emerging from particular people, settings, sites, points and networks, that have an effect on challenging 'totalitarian theories', within the social movement organisations of Latin America? This geographic 'insurrection of knowledges' to continue the use of Foucault's terminology (Wood, 2003, p. 9) has seemingly occurred overnight, with a massive increase in map hacking and access, although it has not been without its problems and opponents. The process has been diffuse, as it occurs from the bottom up with little top-down control. Despite this, it is a movement that is expected to grow and develop whether or not the academic discipline of cartography is involved (Wood, 2003). Some scholars have argued that this is leading to cartography becoming undisciplined, yet rather when framed in terms of providing access to knowledge and platforms for knowledge creation it is perhaps better to think of it in terms of becoming 'freed from the confines of the academic and opened up to the people' (Crampton and Krygier, 2006, p. 12). This socialised, free cartography does not fit easily into any of the traditional scientific camps. MacEachren and Taylor (2013) produced a model and concept of 'Cartography cubed' (C3) which highlights the differences between visualisation and traditional cartography. Cartography cubed enables us to understand the way in which different maps are used and by whom and for whom they are produced. The 'cube' contains three dimensions: private–public, high interactivity–low interactivity and revealing knowns–exploring unknowns (see Figure 1). Traditional cartography has emphasised public use, low interactivity and revealing knowns, while visualisation emphasises private

use, high interactivity and exploring unknowns (Crampton, 2001, p. 244). The kind of open source mapping that would provide a basis for knowledge production for social movement organisations would fall between public use, high interactivity and exploring unknowns, at least unknown to the dominant discourse and elites. In this way, it shares characteristics with both visualisation theory and traditional cartographies.

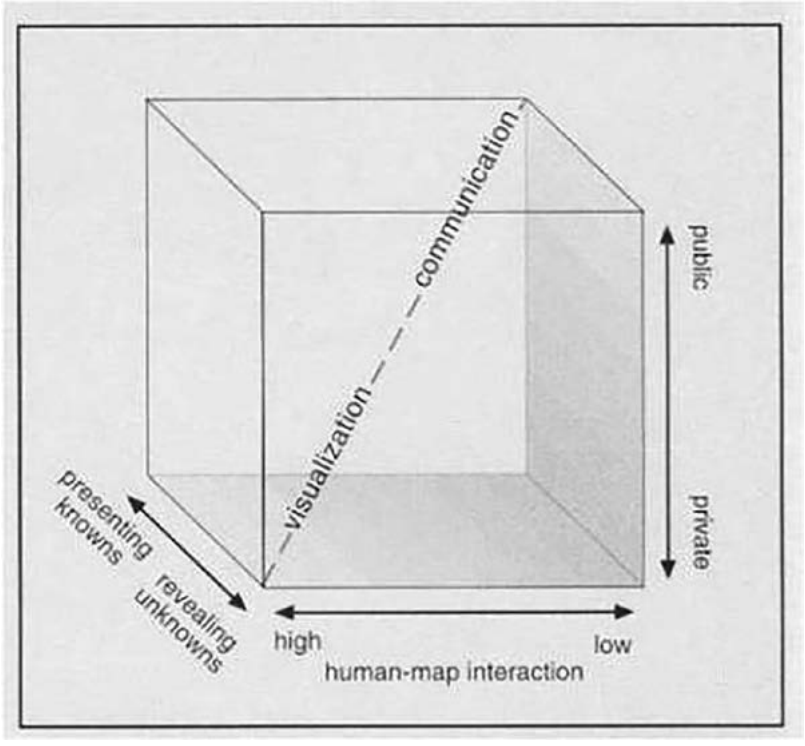

Figure 1

In order for social movements to move towards this public, highly interactive, exploration of unknowns; for this situated knowledge to then promote international attention and for local knowledge to influence dominant, oppressive and neo-liberal discourses, it must be translated into a tactical counter-cartography. The notion of tactical cartography was put forward by the Institute for Applied Autonomy (2008), building upon the ideas of tactical media as a direct challenge to the presumed neutrality of mapmakers. 'Tactical cartographers make claims about not only landscapes, but also about their own status as authors of spatial narrative. In creating maps that confront power,

tactical cartographers claim their right to set the rules of debate and to provide interpretations of local events with both an authority and a contingency equal to official representations' (Institute for Applied Autonomy, 2008, p. 35). So, while this breaks down the notion of the map as the territory, the work of the Car-Tac Collective resonates: 'to make maps is to organize oneself, to generate new connections and to be able to transform the material and immaterial conditions in which we find ourselves immersed', the map they assert 'isn't the territory but it definitely produces territory' (cited in Casas-Cortes and Cobarrubias, 2008, p. 64).

Here the construction of counter-maps begins to touch upon the field of representation, indeed, as noted earlier, no map is perfectly accurate, they in themselves are only representations (three dimensions flattened into two), and the counter-maps offer only an alternative representation. While this chapter does not pertain to discuss in depth the complexities of representation, it is important, at least briefly, to consider some key elements when turning knowledge into action. The kind of self-representation offered by counter-maps will not automatically free the occluded from their oppression (Kidd, 2016) but this kind of representation, which no longer requires intermediaries to call, invite, edit or prescribe in any way what the text produced will turn out to be, presents important implications. Firstly, to borrow from Stuart Hall, because 'representation is a site of active political, cultural and social movement within which, each and every one of us implicated' (1997, p. 343). But further because space is a participatory construction, and thus we are all implicated here too (Adams and Jansson, 2012). So, to avoid the no-win situation described by Joe Bryan as 'map or be mapped', the insertion of self-representation within a culture of tactical cartographies becomes paramount to their importance and power (cited in Paglen, 2008).

A number of examples of mapping tools and techniques have been alluded to and discussed through this chapter, and there are a number of researchers who have studied this practice empirically, notably Joe Bryan and his work on the ongoing struggles of indigenous peoples in the US and Nicaragua. To solidify the importance of such tactical counter mapping insurrections, here is a short example of the use of maps in creating counter-narratives around mining projects in Colombia.

Colombia's liberalisation of the mining sector and recent stability have brought a 'gold rush' of large mining multinationals seeking to exploit the country's significant reserves, which include 12 of the world's largest gold deposits. Amongst them was the South African giant AngloGold Ashanti (AGA), which began local prospecting in the early 2000s. Their finds included a rich seam of gold with estimated inferred resources of 20 million ounces of gold, with a density of 3.3 pounds per ton of ore (Llewellyn, 2013) running

through the Tolima region and directly under the town of Cajamarca, but at the time it was considered inaccessible due to ongoing security risks. Since 2009, however, the company has redoubled its efforts, spending millions to promote the benefits of the mine (La Colosa) and stimulate the mining sector in the region.

In 2013, with low inflation and Colombia's economy growing at 4.2 per cent, Cajamarca's residents were split down the middle over the costs and benefits of the proposed mine. But in the March 2017 referendum a remarkable 98 per cent of residents rejected AngloGold Ashanti's attempt to turn the town into the world's largest gold mine. Though the company is likely to pursue a legal challenge, it may well be thwarted by laws on collective rights. So how did local social-movement organisations achieve this shift in a context of subsistence farming and severe poverty where the appeal of jobs and prosperity could easily outweigh concerns about the environment?

The main mining concession lies 14 km from the town of Cajamarca and 6 km from the main highway, and the concession itself covers 600 km^2 which includes lands in and around the town of Cajamarca and significant proportions of the Coello basin (Llewellyn, 2013). If it becomes operational, La Colosa will form the largest open cast mine in South America, and will add significantly to AngloGold Ashanti's portfolio within Colombia, which already consists of concessions in 20 departments and covering approximately 15,000 km^2, and which has involved US$255 million of investment. Despite AngloGold Ashanti's 'commitment to environmental stewardship', there are significant concerns about the environmental and human rights impacts of La Colosa (Specht and Ros-Tonen, 2016). These concerns are based around firstly the potential destruction of the páramo where, according to the Colombian mining code, mining is not permitted, and also around the use of rivers and the potential for contamination of the water table (Specht and Ros-Tonen, 2016). The very nature and size of Anglo-Gold Ashanti's operations embeds these concerns deeply in the spatial imperative. The boundaries of the mining concession, the physical proximity of water sources, land ownership, access routes, the displacement of peoples and the fundamental physical scarring of the landscape place space at the heart of the project and so to at the heart of its resistance. It is then little wonder that it is digital mapping tools that are providing the backbone to the legal struggle against this major extractive project as well as informing public opinion. A very significant example where spatialised data played a role is in trips to the páramo areas. Rather than using maps with the public, the landscape itself offers a connection to spatialised information. 'Some people have never seen what they are about to lose,' says Fernando Peréz, a local activist interviewed by the author; 'as soon as they see it their opinion about the mine begins to change'. To this end the SMOs in

the area would arrange to take people by jeep up into the high hills around the area. These trips were generally seen as eye-opening and awe-inspiring experiences that were sure to change people's minds. Sadly though, the costs, both in terms of fuel and jeep hire, as well as in terms of time – each trip was a full 12–hour day – meant that they were unable to reach many people this way. Instead, to further support showing people to the páramo, a 3D model of the area has been constructed by local groups, headed by Semillas de Agua, to show to those who are unable to make the trip. The model, when used, was invaluable in being able to show the extent of the mining project, and just how much land would be lost. The marking of springs and water sources also made it clear just how likely it was that the water table would be damaged. Showing the community what would be lost in such a spatial/visual way enabled the SMOs to develop stronger arguments and convince the local population of the potentially destructive nature of La Colosa. Furthermore the model and other maps placed the people within the landscape, inserted their knowledge into the discussion through the inclusion of local understandings that were not represented on official maps. The maps produced were used tactically to call the mining company and government to account, demonstrating that it was not only the mining company that could produce data, that not only the mining company could codify that data. Rather, these counter-maps represented alternative knowledges and alternative power dynamics.

During fieldwork, the community of Cajamarca was bitterly divided over the desirability and impact of AngloGold Ashanti's La Colosa project. Tensions were high on all sides, including the government's. The situation boiled over on a number of occasions, most tragically with the killing of Pedro César García Moreno, a member of SMO Conciencia Campesina, who was shot and killed in November 2013. The military were also regularly deployed to the town, complete with armoured vehicles, rocket launchers and riot-squad support. In a few short years the situation has changed beyond recognition. SMOs have managed to bring about a massive shift in the attitudes of the local population and have recently achieved a bold and important victory in having the mining concession closed, at least for the time being. Contestatory cartography is but one of the many tools that SMOs have used to galvanise the population of Cajamarca. The SMOs would rather invest in GIS software and tools than in social media training or campaigns. Despite the limitations of such tools, as highlighted by Baud et al. (2011) – including and not limited to: the expense of software; levels of expertise required; requirements of data accuracy; and its tendency to promote scientific over local knowledges – these maps and models represent a creative use of spatial knowledge that can and should be noted by scholars and activists the world over. And we should seek to further explore the ability of maps and geographic data to codify knowledge in a way that is seen

as legitimate and scientifically grounded (Robbins, 2003) in the context of human rights and development.

Conclusion

It was back in 2006 that Sarah Elwood of the University of Washington asked why, if so much has changed in terms of how geographic information systems work, and how they are used, are we still being asked questions about access, representation, expertise and power? Now over a decade later her question remains pertinent. Much of the work of movements using geospatial technologies relies on a degree of local participation, either actively or through Volunteered Geographic Information (VGI), yet, as previously stated, when most people are asked if they can make a map, they say no. To take this at face value and to ignore the spatial knowledge of these groups though is to miss an exciting opportunity to overturn the classical mode of map production that supports knowledge building that were, or are, colonial and oppressive in nature, and to usher in a true age of neogeography codifying local knowledges in such a way to enable them to break into the main.

Spatialised knowledge is perhaps still confined to reproducing forms of western scientific knowledge and is yet to fully transcend the barriers of epistemology into a more participatory form allowing for the opening up of ideas around knowledge production itself (Robbins, 2003; see also section 2.2). Spatialised knowledge is still very much held by key individuals and 'there is the risk of furthering inequality if the population of social media users is skewed toward the technologically savvy and those with high human, social, and economic capital' (Valenzuela, 2012, p. 17). There is, however, little doubt that Ziccardi (2013) is right to suggest that 'a smart use of technology can help the expansion and the manifestation of human rights' especially in the development context.

Maps always have been and always will be social constructs that must be viewed in the context of their inherent power, their relationship to the public and private sectors, their seeking or representation of knowledges and their levels of human interaction. A map is not objectively 'above' or 'beyond' that which is represented, nor can one track back from the representation to some ultimate object, knowledge or mind. One of the important implications of this is that we must accept maps as rhetorical devices which dismantle the 'arbitrary dualism' of propaganda versus 'true' maps or scientific versus artistic maps (Harley, 1989; Crampton, 2001, p. 240). The ease, though, with which many people can now access and produce maps is breaking down many of the old theories of how maps are used. There is a significant shift in the power of maps and the sources of the information they represent. While still a long way from fully changing global power dynamics, the marriage between digital media and

PGIS is open space for new and exciting conversations, and more importantly a lot more people are inviting themselves to the conversation.

The rise of digital technology presents some exciting new opportunities for international development and social movements in Latin America, however, they are not a 'silver bullet' or even a straightforward solution for universal inclusion, or insurrection, of these alternative and local knowledges. It is easy to view maps and digital mapping platforms as just neutral tools that can be used both to promote good and bad causes. However, in doing so, we would fail to address the conscious and subconscious agendas that run through the creation of such tools. Every technology and digital interface is built based upon the ideologies of the creator, whether they are aware of them or not, and it is thus impossible to suggest true neutrality. Digital technologies are inherently a conservative force that can lull people into thinking that they are creating change, all the while pacifying them from making any real changes; they 'make it easier for [people] to express themselves, but harder for that expression to have any impact' (Gladwell, 2010, n.p.). Indeed, information collected online and through GIS, and other places such as big data, might be louder and quicker than ever before, but nothing guarantees that those voices will be acted upon once they are heard; success is not automatic. Questions around access also still persist, and while the digital divide is narrowing in terms of access to technology it is essential to remember that society's most vulnerable people are likely to be significantly underrepresented when collecting data through digital technology. Caution too should be taken not to open a new digital divide around the power of analytics; it must be remembered that 'computers will talk to anyone, but only the wealthy teach them to speak' (Cubitt, cited in Summerhayes, 2015).

There is in motion a significant shift in the power of maps and the sources of the information they represent. While still a long way from fully changing global power dynamics, the percentage of people around the globe who are still offline vastly outstrips those who might be considered online (Broadband Commission, 2015), and while acknowledging that data will not necessarily lead to better policy making and more accountability (Stuart et al., 2015, p. 46), 'many people and projects have demonstrated that the internet can indeed be harnessed to challenge entrenched economic, cultural and political interests' (Graham, 2013, p. 9).

As we fully enter the age of neogeography we may have the opportunity to evolve a model of working that does not perpetuate the neo-colonial dependency theory-based models of knowledge management. While trying to avoid the trap of romanticising of the indigenous it is important to remember that local people, and particularly indigenous peoples, have important knowledge based on intimate and prolonged interaction with a given set of

biophysical conditions and that, as a result, local people are often best placed to understand and regulate those conditions in most cases. It is essential to include these knowledges in our work, our maps and to foster the creation of counter-maps in order to foster a true post-development era. Escobar (1992a) suggested that an acknowledgement of local knowledge as equal to that of Western knowledge systems is required to move from neo-colonial/neo-liberal forms of development and fully into the post-development era. Using counter-maps, tactical cartographies and understanding that uneven development is, by its very nature, an issue of space and spatiality, it may be possible to strike down the current paradigm of the postcolonial quest and build something new: a new mode of development, with true human rights at its centre.

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6. From human rights to an urbanising environmental politics: understanding flood and landslide vulnerability in Brazil's coastal mountains

Robert Coates

As the world's urban population approaches 60 per cent of the total, split roughly in half between metropolises and cities of less than 500,000 (UNDESA, 2014), a key commentator, Erik Swyngedouw (2015), argues that our analysis must move from an 'urban politics of the environment' to an 'urbanizing environmental politics'. Making the ongoing extension of urban materiality a starting point for enquiry – rather than an inevitability, or an uncomfortable side effect of other processes – reveals that the vast majority of space and territory (state, rural, marine, or otherwise) is in some way mobilised, demarcated, or managed in the service of the urban. Latin America is a particularly stark exemplar, where some 80 per cent of people now reside in urban areas (UNDESA, 2014), and where diverse manifestations of 'the rural' are increasingly concentrated in large-scale extractivism, or else ecosystem service markets – all destined to either supply, or offset damages from, urban growth at home or overseas. Indeed, the very ideas of 'sustainability' and 'resilience' reveal the key contemporary environmental paradox: that tremendous effort is being expended on micro-engineering socio-ecological relationships at interrelated political scales, whilst simultaneously these actions themselves demonstrate awareness of urban deterioration and precarity (Swyngedouw, 2015). Could it be that environmental politics *itself* urbanises?

This chapter examines the construction of vulnerability to flood and landslide in a medium-sized Brazilian city – Nova Friburgo, in Rio de Janeiro state – and asks what significance human rights discourse has to understanding (and ultimately reducing) vulnerability, in the context of an urbanising politics. Floods and landslides are on the rise in Latin America, as they are globally. From Ciudad Juárez in Mexico to Medellín in Colombia, and from Bogotá right down to Santa Fe in Argentina, rainy-season tragedies annually affect urban areas, and this has prompted a variety of recent scholarship on vulnerability, climate change, and risk reduction (see, for example, Collins, 2009; Hardoy and Pandiella, 2009; Hardoy et al., 2011; Rubin and Rossing, 2012; Valencio, 2014; Winchester and Szalachman, 2009; Zeiderman, 2012).

In Brazil these types of disaster manifest chiefly along the 3,000 km length of the coastal Serra do Mar mountain range – and most notably within its urban areas in the states of Santa Catarina, São Paulo, Rio de Janeiro and Espírito Santo. Guerra (1995) notes a gradual increase, through the 20th century, in landslides in Petrópolis (Rio de Janeiro state), while Sherbinin et al. (2007) discuss the occurrence of the first recorded hurricane in the South Atlantic, which inundated Santa Catarina state in 2004 and led to numerous casualties. Four years later, floods and landslides caused one hundred deaths in the same state, and this was followed by widespread land slips in Rio in 2010, which killed some 250 and left thousands homeless. Scarcely a year later, over 1,000 people died in a similar extreme-weather event in the cities of Nova Friburgo, Teresópolis and Petrópolis: to date, Brazil's worst 'natural' disaster.

An increase in landslide and flood hazards is linked to changes in rainstorm frequency and intensity, as well as to sea-level rise and storm surges, all shaped around anthropogenic climate change. At the same time, urban settlement, deforestation and erosion limit the land's capacity to form a protective barrier. Uneven development processes have ensured that poorer, marginal, sectors of society – those with limited rights – remain the most exposed and the most unable to recover. Vulnerability, as numerous authors assert, is complex and multifaceted (Hardoy and Pandiella, 2009; Oliver-Smith, 2004; Pelling, 2001; Watts, 1983; Winchester and Szalachman, 2009). Making sense of it in essence has to probe the allegedly authoritative boundary between human social, political and economic development on the one hand, and the abstruse 'nature' of natural disasters on the other. Is human development to be seen as unnatural, as it is spaced across territory, just as much as natural hazards are viewed as unhuman? Hazards and disasters challenge us to extend our conceptions of social life through political-ecological thought (Bakker and Bridge, 2006; Braun, 2014; Collins, 2009; Oliver-Smith, 2004; Valencio, 2014; Zeiderman, 2012; Zimmerer and Bassett, 2003).

This chapter considers the relevance of human rights discourse to an understanding of social vulnerability in urban Brazil. It draws on qualitative fieldwork by the author in 2013–14, in Nova Friburgo (Rio de Janeiro state) – the location of Brazil's most serious landslide and flood event in 2011. Over the course of a year, 80 interviews were undertaken with people in at-risk areas, as well as within government agencies charged with reducing risk and vulnerability. This was accompanied by significant observational and document analysis work. The aim, in brief, was to unpack the meanings of rights and citizenship across different social groups acting on the front line of vulnerability and risk reduction. In the context of long-term flood and landslide risk, the more specific target was to unpack the everyday realities of vulnerability, rather than to view disasters as an exception to 'normal' life. Not

wanting to pre-empt possible solutions to disaster/hazard risk, it focussed on the long-term political, ecological and socio-economic changes within which vulnerable subjectivities are formed.

Crucially, the chapter argues that human rights discourse – through focussing on 'the human' as separate to, or controlling of, wider ecology – offers too narrow a frame to inform an understanding of vulnerability and disaster. Instead the problematic is turned on its head, through the questioning of why – regardless of all the analysis and understanding of rights and their associated interventions – flood hazards continue to increase, and why a substantive sense of rights is ultimately undermined. Drawing on Povinelli (2011) and Braun (2014), the chapter contends that late liberal governance, of which human rights discourse forms a part, depends upon its relationship to 'nature' – in the form of environmental problems – in order to declare what it is to be human. Thus the discursive production of natural disasters serves to reproduce separation between the human and the environmental, which enables the urbanising, anthropocentric, and vulnerable milieu to repeat in cyclical fashion. Disasters, externalised as natural, authorise liberalism to proclaim an absence of rights, which justifies urbanising interventions, ultimately leading to greater vulnerability.

To this end, the chapter is divided into five core sections. The first offers a broad overview of theoretical literature linking human rights, disasters and vulnerability, much of which draws from Brazilian and Latin American contexts. The second and third sections provide discussion of the historical contexts in which socio-ecological vulnerability has emerged in Brazil's Serra do Mar, and specifically in Nova Friburgo. We then turn to interview, document and observational data gathered by the author to demonstrate the overtly political context in which recent housing developments have taken place, and to question the basis of efforts to reduce risk. The last of the five core sections, prior to the conclusion, examines river improvement programmes to manage flood risk, and the situation of those people living at river margins who are threatened with eviction. The analysis here leads us to reflect on the way human rights are construed, justified and practised in relation to the human and the non-human, and on the authorities which claim to understand and demarcate both.

Human rights, urban vulnerability and disaster

Human rights discourse has an ambiguous relationship with space and ecology. Foundational human rights texts – written during post-war upheaval and state making – emphasised human individuality beyond the geographic boundaries of states, as well as sovereign rights to utilise natural resources and wealth in the (potentially equitable) interests of national populations (see e.g. Eckersley,

1998). This sense of distributional justice was to apply universally; however, it also represented clear instruction over the basis of liberal state sovereignty, at a time when de-colonial movements were gaining significant global-political traction. As Eckersley (1998) points out, while human rights could be effectively mobilised for the interests of minority groups under state homogenisation, there were never any clearly recognised 'environmental rights', or rights against degradation per se. Instead, so-called 'third generation' rights – to a healthy environment and to generalised human well-being – were articulated as a tangible part of sustainability discourse in the 1987 Brundtland Report, and then extended to broader economic, social and cultural rights under the UN's Right to Development in 1996 (see Bakker, 2011; Rist, 1997).

The lexicon of human rights was therefore underpinned by an episteme of 'the environment' as separate from (or to be utilised by) the human, and a vision of environmental degradation as being relevant only when directly connected to human health. In turn, human health became a proxy for the environment as a whole (Le Billon, 2015). Delimiting 'the environment' necessitates defining what 'we' are, and who or what 'the other' is (Le Billon, 2015, p. 601). The discourse implied spatial governance, as the human was viewed as dominant over an ecology presumed stable in the face of human action. But it also produced temporal governance, because the longer-term processes of ecological degradation associated with development (and ultimately impacting upon human health) were considered irrelevant to rights in the present. Ultimately, human rights discourse overlooked the human place in a mutually constituted environment, and instead directed us toward rights and justice in a future of sustained and expanded development. The historical specificity of the discourse – namely its links with a particular geopolitical époque of Western liberalism, state making, industrialisation and urbanisation – was ignored.

This is illustrated more clearly if we look at the Brazilian development and legislative context, particularly in the new millennium. 'Progressive' government by the Partido dos Trabalhadores (PT) – as with others in Latin America – stressed the expansion of the extractive economy (agri-business, mining, etc.) as the means to invest in cash transfer and other social programmes, in order to achieve (largely urban) social development outcomes (Morais and Saad-Filho, 2011). Natural resources, named as such for their anthropocentric usage, would serve progress in the expansion of social and economic rights to those in the margins, who had traditionally been excluded from the 'right to have rights' (Dagnino, 2005). The ecological degradation associated with intensive land use – both in commodity export expansion, and linked urbanisation following rural to urban migration – was separated from the achievement of rights to land/shelter and to health for the majority urban population, which it was claimed would materialise in the future.

In Brazil, legal-institutional reforms such as the 2001 City Statute, which followed the lead of the bulky 1988 Constitution, enabled the regularisation of informal settlements by advancing universal rights to land and habitation – and by extension to public services (Fernandes and Rolnick, 1998; Fernandes, 2007). The 'private property rights' previously associated with landowner monopolisation of the state had become the 'right to property' across all of society (Fernandes and Rolnick, 1998; Fernandes, 2007). James Holston (2008) famously viewed these major legislative changes as a direct product of the social movements of the poor, who took their right to land and their place in the state into their own hands through urban auto-construction, so that the state was obliged to reform and respond. However, the legislation failed to discuss the ecologies of the spaces that would be legally fought over and occupied, deeming their environmental particularities to be of secondary concern to the pressing issue of human rights. In the numerous agglomerations of the Serra do Mar, auto-constructed urban peripheries – very often deforested and developed by unscrupulous contractors – were located on steep inclines and along river margins, where rights to housing, healthcare, development, and a place in the state would always lie in the shadow (or at least alongside the tacit acknowledgement) of climate risk and social vulnerability (Maricato, 2003; Valencio, 2014).

Although the thrust of Brazil's recent development policies has unhappily married extractivism with social rights and urbanisation, there is no shortfall in environmental legislation that relates to landslide and flood risk. As far back as 1965, Brazil's Forest Code outlawed deforestation, or development of any kind, in a plethora of specific zones called Áreas de Preservação Permanente (APPs), including river margins, hilltops, and gradients of over 45 degrees.[1] Though the Forest Code came under threat in 2012, through revisions tabled and won by large-scale agribusiness, the resulting document does maintain the above-mentioned protections. Of course, the fear of degradation and erosion related to both human health and the economic security of natural resource use and urban growth, rather than to 'the environment' per se. Throughout, immediate human health was the proxy of overall environmental health, and developmental imperatives were seen as the answer to future rights for all. Other related legislation came in the form of the 1988 Constitution, which protected the remaining Atlantic Forest as national patrimony – and echoing this, the formation of the UNESCO Serra do Mar Biosphere Reserve in 1992, signed by the later-impeached president Collor de Mello (Dean, 1995). Further promises of conservation came in through the Lula and Dilma Rousseff years – including legislation Dilma was working on shortly before her own

1 The link between the lack of APP enforcement and the 2011 disaster is explored in a Federal Environment Ministry report entitled *Areas of Permanent Preservation and Areas at Risk: how do the two connect?* (FME, 2011).

impeachment process began, in 2016. Overall, forest protection legislations only served in adding gloss to global sustainability discourses, and implicitly acknowledged that extractivism did in fact represent a major threat to longer-term development, and ultimately to human rights. Most of all, however, the legislation is notable for its utter failure in protecting against deforestation and urban expansion – particularly on inclines and along rivers – especially where it contradicted the granting of rights to land, services and a place in the state to urban peripheries.

The contradictions and absences inherent to human rights discourse discussed above – particularly with regard to the imagination of development and urbanisation – have not prevented the firm conceptualisation of vulnerability to flood and landslide solely in terms of socio-economic development and social and political rights. In a report on urban climate risk and vulnerability for ECLAC, Winchester and Szalachman (2009) highlight the practices of socio-spatial segregation and deprivation that have pushed the poor into peripheral, hazard-prone locations. The authors stress the need to ensure shelter and tenure rights, alongside sanitation, education, and income opportunities. Rights must thus guide climate adaptation focussed on state reform, public service expansion, and 'regulatory frameworks for land use and building standards' (Winchester and Szalachman, 2009, pp. 23–4). The call was admirable – rightly 'denaturalising' disaster, and refocusing us on addressing exposure and development failure – but ultimately it avoided the difficult question of why and how urbanisation emerges in the first place, in favour of adding state-based legislative solutions that history had shown little evidence of having successful application.

The approach is developed somewhat in other work. Pelling (2001) drew on urban flood risk in Guyana to argue that catastrophes should be viewed as extensions of 'chronic', everyday disaster. The disaster-development 'continuum' was based, as above, around an absence of rights: multiple arenas of risk – whether 'environmental', or unemployment and crime – gradually increased exposure to the next event. Elsewhere in respect of Latin America, authors stress government incapacity, corruption, patron-client coercion, and the obfuscation of responsibility following chaotic state decentralisations in the1980s, as reasons for increases in landslide and flood exposure (e.g. Allen, 1994; Hardoy and Pandiella, 2009; Maricato, 2003). Maricato (2003) focuses on the production of 'environmental apartheid' in the Serra do Mar, based on differential access to justice. Like favelas, *loteamentos clandestinos* (illegal subdivisions) were built on deforested slopes and yet were incorporated into utility markets; they are closely linked to politicians, and pay land tax to the same municipal authorities constitutionally charged with controlling land use. Valencio asserts that the PT's very real development gains on income poverty,

health, and education are contradicted by a 'public machine [that] dissolves the capacity to claim rights' – whether in terms of security and justice or in mitigating environmental disaster (2014, p. 300).

Uniting all of these authors is a plea for an accountable, substantively democratic state that can reduce exposure by guaranteeing rights. Chronic vulnerability places the state as both the central problem and the solution: its failure to guarantee rights leads to disaster and further calls for state reform. Effectively aligning human rights with distributional environmental justice, the approach offers exemplary documentation of the uneven exposure of the poor to environmental hazards (whether toxic dumps or landslides) and the externalisation of these risks for the elite, but it says less about how the materiality of (urban) 'nature' is articulated and interwoven with political power and liberalism itself (Swyngedouw, 2015). Flood hazards are in a sense denaturalised through a focus on socio-economic inequality and vulnerability – 'an urban politics of the environment', for this same author. Yet the focus also implies the occurrence of hazard events over an already present population. 'The urban' is thus perceived as present prior to the non-human nature that envelops and co-constitutes it. If this is correct, and the materiality of urban expansion is taken as a given, how are we to think through risk and vulnerability in terms of an urbanising environmental politics?

Tracing the political-ecological roots of vulnerability, Oliver-Smith (2004) notes that classic liberal thinkers like Rousseau (echoing Hobbes and Locke) framed 'wild' nature – including forests, 'resources', and their attendant indigenous populations – for management, domestication, and emancipation through (urban) modernity. This idea of 'ecological succession', where nature would be superseded through development, offers much to an understanding of the role of environmental hazards in urban expansion, as opposed to traditional views that link vulnerability directly to poverty, marginalisation and an absence of rights (Gandy, 2006). It was to be expected that those populations categorised as subordinate would be placed into the nature/past tense category and thus consigned to the most dangerous locations. Given that efforts to increase human security are concentrated on reducing the symptoms of disaster, through engineering interventions for urban 'resilience', it should be no surprise that these efforts 'condemn us to constantly repeat the exercise since both causes and symptoms evolve with our attempts to address them' (Oliver-Smith, 2004, p. 14). If 'the social' is co-constituted with ecological processes, rather than operating in a one-sided technical or controlling capacity, this chimes with readings of ecology as dynamic, rather than passive and stable, in the face of human behaviour – and implicates biophysical scales such as watersheds in human development and social change (Zimmerer and Bassett, 2003). Human rights discourse presents parallels with the idea of

ascending out of nature. This impacts upon the human ability to define its place in relation to space and ecology, and risks contributing to the kind of governance that promotes urban expansion – and which, ironically, leads to greater vulnerability and a diminished experience of substantive rights.

With this in mind, Povinelli (2011) helps us to consider the political meanings of disaster for late liberal governance, particularly in states of settler-colonial heritage. Rather than focussing on producing a more just state that could uphold the rights imagined by liberal theorists, she asks what kind of governance produces cycles of chronic social vulnerability. Ultimately she questions the 'eventfulness' that is routinely awarded to 'sublime' crises – as opposed to the 'non-eventfulness' of ongoing chronic vulnerability:

> [The vulnerable are] not part of a system of disposability because [they] cannot be disposed with. In the oscillation between this state of neither great crisis nor final redemption there is nothing spectacular to report. Indeed nothing happens that rises to the level of an event let alone a crisis […] Life-as-suffering will drift across a series of quasi-events into a form of death that can be certified as due to the vagary of 'natural causes' (Povinelli, 2011, p. 4).

Recognising 'nature' thus both deflects responsibility for disaster and enables liberal governance to imagine a 'thriving' future of rights and justice. New legislation, governance institutions, and risk/vulnerability reduction interventions separate a past of irrationality with poor ethics from a future that can progressively calculate and monitor the environment. Yet non-human environments rarely comply with planners' designs, and as chronic vulnerability deepens, the cycle of recognition of natural hazard eventfulness is repeated.

The following sections focus first on the Serra do Mar and then on Nova Friburgo, in order to illustrate and develop these critical-theoretical themes. The purpose of the theory, of course, is to help to analyse and explain social life in order to find meaningful ways to engage with, and ultimately ameliorate, pressing conflicts and abuses. Where the experience of disaster appears to be on the rise, we are right to question why human rights discourse – alongside wider liberal frameworks – is failing to deliver on its promise. Understanding the extensive vulnerability from which landslide and flood disasters take their form requires a spatial and temporal frame that is able to explain the expansion of human settlement and the co-constitution of social life with the non-human – to which matter we now turn.

The time-space of development and disaster in the Serra do Mar

The Serra do Mar mountains form the backdrop to the metropolises of Rio and São Paulo, along with many smaller cities, and separates them from the

high plateau (Planalto Central) of the Brazilian interior. The growth of cities within the range began in earnest in the mid 19th century, though their origins in fact go back much further, to indigenous villages, mining settlements, sugar and coffee plantations based around African slave labour and associated settler colonies. The mountain environment cannot be separated from the Atlantic Forest (Mata Atlântica) biosphere – which, at its peak, covered an impressive one million square kilometres and which, retreating and expanding through its 12,000-year history, remained stable in size and scope for some 3,000 years until 1500 AD. The commodity cycles of gold, sugar and coffee that followed – combined with selective logging and more recent agriculture – led to fundamental patterns of degradation and erosion that today have reduced the forest to four or five per cent of its original size (Dean, 1995; Nehren et al., 2013).

Whereas the deforestation of much of Brazil's coastal lowlands in the 17th century was due to the sugar economy, in the 18th century it was gold exports that opened up the Serra do Mar's leeward valleys to erosion. After 1720, the *caminho do ouro* [Gold Trail] – from Rio de Janeiro to mines inland, in what later became the state of Minas Gerais – carried large gangs of slaves, *bandeirante* colonisers, and armies of horses and mules, all of them dependent on deforested agricultural settlements for foodstuffs and grazing pasture along the route (Dean, 1995, p. 99). The so-called 'green gold' of coffee was to dominate 19th-century Rio, then Brazil's capital city, driving forward national development and providing capital for urban industrialisation. Planters – awarded *sesmaria* land grants by the Emperor – notoriously favoured virgin forest, for the substantial depth of humus it provided for the coffee plant's long roots (Dean, 1995, pp. 182–8). While valley floors were too damp for coffee to prosper, the mountainsides offered ambient conditions. After 30 years of planted coffee, the soil degraded and more virgin forest was required. By 1860, 60 per cent of Rio de Janeiro state was cleared of forest – the majority for sugar and coffee, including large tracts of subsistence land for the male slaves who cut, burnt and planted, and for the women and children who dried and processed coffee berries for export (Dantas and Coelho Neto, 1995; Dean, 1995; Nehren et al., 2013).

Substantial problems with erosion and landslides ensued across Rio state: the culmination of over 200 years of human-led soil degradation in the Serra do Mar (Dantas and Coelho Neto, 1995; Nehren et al., 2013). This was a deterioration that, according to these authors, in large part explains São Paulo's dramatic rise in coffee production from the mid 19th century – patterns of socio-ecological commodity production and erosion that were then mirrored along much of the continent's 3,000 km-long coastal mountains. The fact that the Mata Atlântica biosphere is in the main self-generating – with soil quality

depending upon the humus generation and mineralisation that results from heavy leaf-falls, which in turn enables tree growth (van Breemen, 1992) – makes the forest hard to reconstitute and 'highly vulnerable to trauma' (Dean, 1995, p. 15). With urbanisation developing alongside the networks of rail, and then roads, that carried coffee and later agricultural crops down to the coast, the forest was increasingly fragmented, and consigned to higher altitudes. Often interspersed with eucalyptus plantations, or pasture for beef cattle, both the built environment and contemporary agriculture have contributed to further soil degradation and frequent landslide incidence in urban peripheries (Nehren et al., 2013).

All of this points to the ecology of soil degradation and landslide vulnerability as inseparable from an extractive political economy – based on colonial trades in sugar, timber, gold, coffee, and so on – which forces the brunt of environmental problems into the hands of the poor. The idea of mitigating disaster risk through correcting the uneven practices of, or access to, human rights in the present – to secure housing, property, health, labour, hazards protections and response, etc. – appears to overlook the complexity of the spatial and temporal production of vulnerability through that same colonial political ecology. Put another way, by asserting the desire for rights to security against the risks associated with externalised nature, rights discourse is caught within the recognition of humanist ontology – where 'extractivist' and then 'urbanised' spaces are produced in continuity – and that, in the final instance, could reduce any substantive imagination or achievement of equality.

Nova Friburgo and the production of vulnerability

A clearer understanding of the latter argument is possible if we consider Nova Friburgo, a city and municipality of some 200,000 people, nestled in a valley within a remnant of the Mata Atlântica, at 846 m above sea level, and 130 km from Rio. Founded by royal decree in 1818, it lay close to the existing regional centre for coffee production. For Araújo and Mayer (2003, p. 36), this new Swiss colony – established by 1,600 impoverished migrants – became 'an island in a space already ruled by the slave world […] which necessitated their adaptation to the slave order'. This very idea of implanting an island of European civility in the higher reaches of the Mata Atlântica connects territorial control with narratives of ethnic and developmental backwardness. As such, this type of settlement, throughout the now disaster-prone Serra do Mar, must be viewed within the schema of 19th-century immigration aimed at ethnic 'whitening' and environmental/territorial cleansing (Costa, 2008; Dean, 1995; Skidmore, 1993). Friburgo's forest surrounds were, from the start, etched into local memory and maps as o terreno de índios bravos ['the land of angry Indians'] (Costa 2008, p. 18). Such associations of the

forested interior with poverty, indigenous backwardness and vagrancy then continued, with the emergence of quilombos (Maroon settlements) of escaped slaves, and the numerous hideouts of illicit gold traders (Dean, 1995). Nova Friburgo's creation juxtaposed a modern, regal, and ideally urban presence with an interior of dubious race, perceived lawlessness and untamed nature. The practices and timescales of settlement varied through the mountains, but the discourse remained constant, in Nova Friburgo as elsewhere.

The Swiss settlers suffered significant problems. Their new home was located in a wetland, and the Bengalas river flooded during each rainy season, carrying away the first bridges, crops and animals, disrupting livelihoods, and resulting in death and disease. The population possessed learned knowledge of neither locale nor climate, and the land grants – parcelled out in sizeable rectangles by means of a lottery by Rio bureaucrats – ignored topography and gave no indication on how to farm with erosion and landslides in mind. Aided by the arrival of 343 German Protestants and numerous slaves in 1824, the colony began attempts to safeguard homes and livelihoods. Jaccoud (2006) reports the passing, through the 19th century, of some 40 municipal acts relating to flood risk reduction – with four major river-straightening initiatives gaining federal funds. Yet each consequent intervention failed to bring improvement, and the local council acknowledged the initiatives' total ineffectiveness. The failures exposed the need for more sophisticated engineering.

Simultaneously, showpiece roads and *praças* were built on the floodplain: squares were laid out in the fashionable symmetrical French garden style, lined with imported eucalyptus, which both perfumed the air and served to dry out the saturated soil. This echoed what was happening in Rio itself, as the then capital city. The heavily populated Castelo and Santo Antônio hills were simply removed, to make way for urban growth – with their soil and rock used for landfill, for the creation of new squares and districts (Abreu, 2006). The Cidade Nova district – a drained and filled bay inlet – became immediately susceptible to flood and rampant mosquitos, resulting in its residential use almost entirely by the poor.

In the Serra, Nova Friburgo became a contradiction between being within – or subject to – nature, and a signifier of organised European development ascending out of nature. The settlement was clawed back, like Rio itself, from a perceived hostile and wild landscape of forests, rivers, rocky peaks and suspect races. One of the architects of turn-of-the-century sanitation reforms, the medic Miguel Pereira, famously declared that the Brazilian interior was 'condenado pela raça' – or condemned to backwardness by race (Fischer, 2008, p. 215). Nineteenth-century discourses of scientific racism and degeneration remained a feature of Rio's intellectual and governmental life, informing the desire for a new belle époque of urban purity (c.f. Borges, 1993; Needell, 1987; Skidmore,

1993). Ironically, Pereira also advocated escape to the mountains as a clean-air treatment for the dreaded tuberculosis sweeping through the metropole, and Nova Friburgo – riding on the back of the coffee boom – became an elite resort: cooler and cleaner than the grime of Rio, and with abounding space for grand properties, amidst mountain features and patchy but existent forest. Tourism was dependent on nature both for what it was presumed to offer and for the human ability to tame and manage it.

Nova Friburgo's morphosis into a city began in earnest a decade into the 20th century, as German industrialists were drawn by hydropower potential. Small dams and textile factories were built, which grew rapidly under state-assisted industrialisation. President Vargas himself visited in 1932, in praise of the small city's burgeoning industry – proof that national advancement was possible even in difficult locations. Neighbouring towns – for almost a century focussed on coffee – began to empty as Friburgo grew. It was during this same period that local elites began to craft the myth of Friburgo as a 'Brazilian Switzerland' – an imagery prevalent today, aesthetically and perceptively, among much of the city's population. In reality, there was very limited Swiss heritage, as both the African and Swiss presence had been vastly diluted by the arrival of Syrians, Portuguese, Italians and Germans. The myth itself, historians argue, was born during the First World War to hide the fact that German industrialists now effectively ran the town's economy (Costa, 2008). Promoting Friburgo as a centre of Swiss, rather than German, culture concurred with Brazil's political allegiances, and was consistent with the desired differentiation of (northern) European civilisation from pejorative indigenous, Afro-Brazilian, or Portuguese-mestizo stereotypes. The Suiça Brasileira became embedded in local politics and imagination as the founding component of what was in fact a town built on forest, coffee, slavery, floods and German engineering.

According to the census, Friburgo's population grew from 12,400 in 1940 to some 70,000 in 1960, as the city offered far better life chances than dependence on a beleaguered coffee crop, whose price collapsed after the Great Depression (Araújo and Mayer, 2003). New districts of makeshift homes emerged, principally close to central amenities, which provided an instant cheap labour force for metals and textiles entrepreneurs, city commerce and service providers. Yet these favelas presented a scar on the landscape, inhibiting the Swiss ideal and elite tourism. To counteract this, the city masterplan of the 1960s took its cues from Carlos Lacerda's violent evictions in Rio, which called for zoning, removal and resettlement (Fischer, 2008, p. 301). Aimed at attracting the Rio elite through the Swiss themes of clean air, spa treatments, fine mountain views and chic foods, the plan outlined the necessity of maintaining Friburgo as an example of civility to the rest of Brazil. Much of what was 'undesirable [or] ugly, or that symbolised the absence of civility' was relocated to the city's fringes

(Costa, 2008, p. 22). Yet predictably, in a deforested mountain environment, this massively exacerbated landslide and flood risk.

The dams that were built to serve the electricity needs of city factories in the early 20th century were accompanied by a longer extension of the Bengalas river canal, northwards from the centre, aimed at safeguarding new industry. And yet flood incidence continued apace. By the end of the century, the urban population had more than doubled, to 160,000, and so flood casualty numbers significantly worsened, with one analyst identifying 17 major flood incidents between 1979 and 2005, four of them causing significant mortalities (Volotão, 2006). The 1996 city-centre flood was the prime justification for further river interventions in 2002 – and 'yet they aggravated floods in […] Conselheiro Paulino, downstream of this stretch, which suffered an unprecedented inundation [in 2005]' (Volotão, 2006, p. 42). Fatal landslides in a number of locations in 2007 were followed in 2011 by the most serious single disaster event in the history of the city, its region, and all of Brazil. A month of wet weather, soaking the weakly bound and frequently degraded soil, culminated in the collision of two weather fronts above the Serra do Mar and the unleashing of torrential rain for some eight hours. Thousands of slips resulted across both ecologically and socially vulnerable locations, including in numerous places around the city's fringe, and the descending mud and water then quickly overwhelmed the canalised river along the urbanised valley floor.

The river's meandering course through the valley had been rerouted and canalised, firstly to fit the 19th-century schema of colonial implantation, and secondly to embed relentless 20th-century modernisation. An expanded labour force accompanied industrial growth – as Brazil aimed to take its place amongst the 'great nations' – and yet this growth depended on interventions that purported to make the city's flood risk manageable. The continuous onslaught of water and earth that ensued refused to cooperate with the planners' dreams, and the cycle thus continued. Ecological succession has remained a key spatial mediator through Friburgo's short history, with a hazard-prone environment providing the material input for progress toward urban modernity (Gandy, 2006). The following two sections draw on a series of interviews with residents and key political actors in Nova Friburgo, in order to progress this brief history to the present day, and to further explore the theoretical claims examined earlier.

Urban expansion

Nova Friburgo's most prolific developer, Sergio, had laid out 26 *loteamentos* (housing subdivisions) over 40 years, many of these on the vertiginous slopes of the city's central valley, or else at its distant fringes. In interview with the author, Sergio stated that 'just three [of these] were middle class … the rest

were C-class: the poor, you know – so I'm the culprit for a large part of the "pollution".' At this, he laughed. He went on:

> I presented the land, prepared the land; the mayor at that time said he'd name the local school after me […] When you open a subdivision you bring construction materials; afterwards you bring light, bring water; everything is solicited for. You should see how many jobs are created when you make a subdivision. It's a treadmill that never stops.

The developer's discourse was characteristic of someone that had made his life's work urban growth – and ultimately, by extension, modernisation of both land and country. The wide territorial space of Nova Friburgo presented a canvas for city expansion, and the poor, in all their backwardness or misconduct, could develop in tandem. Sergio's work, contacts and clients led to a promising career in municipal politics, illustrating the connection between development and political power that has been the rule, rather than the exception, across Brazil.

Yet the human aspect was also linked strongly with the environmental. N.S. de Aparecida was a hilltop subdivision above two others, all of them developed by Sergio in the 1980s and 90s – first by clearing remnant Atlantic forest (likely regrowth after the decline of coffee) and then by laying out steep tracks and individual plot boundaries, where new residents would construct their own homes. According to Sergio, this hillside now contained over 1,000 houses, on land that was formerly '[just] hillside; there was nothing there at all'. For Nova Friburgo's modernisers, 'empty' hillsides preceded society – an antecedent nature that was there to be conquered by the will of human beings. Given this, it should be no surprise that Sergio, echoing other municipal power holders, viewed the source of the 2011 event as 'the unprecedented rains, the natural disaster'. As Oliver-Smith (2004) makes clear, vulnerability lies first and foremost within the nature/culture dynamic – a mutually constitutive relationship between discourses of nature and development and the materialities of the environment. If cultures of modernisation, backwardness, and nature had produced both urban space and vulnerability, then in turn offering recognition to the immediate disaster event, rather than to ongoing vulnerability, provoked further spatial change and discursive visions of nature and modernisation. Human rights discourse in this context is left to act on and over space – as much focussed on the socio-economic rights of those positioned within a state of nature as it is upon that same population's right to development. The role of space as more than human, or as co-constitutive of the human, was ignored. To follow Maricato (2003) and others' assertions that vulnerability was caused by a straightforward lack of socio-economic rights and/or citizenship would be to re-emphasise anthropocentric constructions of nature.

Lena, a young seamstress in the local informal clothing industry, lived at the top of the N.S. da Aparecida subdivision. Her parents had left behind rural

poverty in the early 1990s and, through buying an inexpensive plot of hilltop land from Sergio, built their home in the city. With an expanding family, and the plot neighbouring their own unoccupied, they squatted it and later installed their daughter and her young family. With squatters' rights under the 1988 Constitution now legally applied, land tenure and access to social rights and public services – however inadequate – had followed. Together with the PT government's expenditure on cash transfers – funded via the extractivist commodity boom, and bringing significant income into urban peripheries – rural to urban migration had brought forth significant areas of improvement, and opportunities to challenge existing rights inequalities (Fernandes, 2007; Holston, 2008).

And yet life here was also shrouded in risk and vulnerability. In 2007 a landslide killed one of Lena's immediate neighbours and led to the evictions of another 10 houses, which remained derelict seven years later. Though the event had offered ample warning of the combined effects of deforestation, hillside occupation and heavy rain, just 50 m from Lena's home a much larger 2011 landslide killed 43. The larger slip's location was now undergoing major containment works – likely aimed at securing a higher-value subdivision on the hilltop beyond – while dense, mainly lower-income occupation remained across the surrounding steep hillsides. There was no easy answer to Lena's predicament:

> What to do when it rains? Get out and run! But in fact there's nowhere to run to. It's difficult. […] There will be more tragedies, for sure, due to the deforestation in a region with lots of forest and lots of earth that you shouldn't move. If they could cut more trees, they would. Plant? Never. I think planting would be good, and also education and health. Education is the principal thing. I don't think we need containment walls.

The hillside where she lived and worked was at risk of landslide, and when heavy rain led to rapid inundation of the narrow valley below, there was little room for escape. Lena was clear in her condemnation of (very selective) engineering works to reduce flood risk, but her comments also highlighted the integration of the human population with the surrounding environment, including the absence of any immediate human solution outside of the wider ecology. For Lena's human rights to be meaningful or substantive they would have to be able to account for the role of space beyond the human, within which human and wider environmental health come together. A narrow focus on social, political or economic rights would not adequately account for land-use change, climate, trees or soil.

Of course, while constitutional rights to development, land and services – not to mention municipal politics – all played out across the territory, the tens of thousands of constructions on Nova Friburgo's steep hillsides and along the

riverbanks of the valley floor remained entirely illegal according to Areas of Permanent Preservation (APP) under the federal Forest Code. As the municipal under-secretary for the environment explained:

> What is clear is that 90% of landslide areas were APPs – and the losses of people, patrimony and residences would not have happened if the Forest Code had been obeyed. […] A fundamental thing, which is a huge tragedy for Brazil, is that laws are sanctioned, voted for, approved, but not enforced.

The idea of implanting rights – whether to a healthy, secure human-centred environment, or against spatial/ecological degradation in and of itself – depended not only on production of policy but also on the functionality, harmony, and, more broadly, the 'will' of a legal-institutional apparatus operating at multiple levels of government. While it was exactly the absence of the latter that Allen (1994) highlighted, following landslide disaster in Rio in 1988, the broader thrust of urbanising processes was left underexplored. Indeed, for Sergio, the Nova Friburgo developer, APP regulations were simply there to be ignored, as they contradicted the imaginary of municipal development as modernisation out-of-nature – while for many residents there was scarcely the knowledge that APP legislation even existed. The wheels of the giant federal bureaucracy acted independently of any grounded reality of implementation – a territorial-institutional apparatus that took its raison d'être directly from co-produced political-ecological problems such as landslides, in the search for a vision of a liberal state of international standing (Freitas and Mozine, 2015).

Given that the Forest Code was a federal law with universal applicability on paper, the body that would theoretically lead on APP fiscalização (compliance and regulation) was the federal Brazilian Institute for the Environment and Renewable Natural Resources, or IBAMA. Yet the organisation's sole representative for Nova Friburgo and its broader region noted, in interview, that these laws had never been taken seriously in municipalities, due to 'a fear that the Brazilian environmental movement would use it to "conserve" cities and prevent construction'. The problems involved were manifold:

> To have fiscalização in the municipality, there are political questions and private interests [to take account of] […] Local administrations don't have – or complain that they don't have – the resources: a trained technical team that can keep up. Nor is there an interest in [fiscalização] due to our structure, our political process, and elections. Fiscalização generates such a headache, even for a diligent mayor – a headache that loses votes – so he prefers to withdraw entirely or delegate responsibility elsewhere. The laxness is exploited, and leads to disordered city growth.

In short, the urban imperative – which drew as much on capitalist-extractivist mentalities as it did on discourses of a vilified nature – subsumed liberal institutional efforts to introduce rights to human health or security. Even where the substantiation of human rights had appeared to take place – in the form

of urban occupation rights under the constitution and city statute – conflicts occurred between laws at different levels of government, such as with APPs, as well as with a spatial reality that included other actors such as water, soil and forest. Furthermore, the environmental problems and conflicts that emerged as a result of urban expansion gave form and purpose to increasing calls for a state that could substantiate human rights. Following disaster, liberal discourse could separate a potential future of order and justice from a past of poor ethics, illiberalism, informality and backwardness, just as Povinelli (2011) argued.

Recognising disaster, and the repetition of chronic vulnerability

Along the western riverbank, well below the N.S. de Aparecida subdivision and in the shadow of the wide hillside containment works above, some 800 residents were threatened with eviction. Though there were only a handful of fatalities along this stretch of river in 2011, the houses had flooded, and the Rio state government environment agency, INEA, had informed residents in writing that their homes would make room for river improvement works – namely widening, drainage, canalisation and fluvial park construction. Lying between the river and the Rua Ferroviária, settlement here was initially authorised shortly after the old railway line was constructed in the 1870s, designed by British engineers to bring coffee down to the coast, and built by enslaved Afro-Brazilians. Migrants and the poor had since squatted remaining plots of land, and, as within the *loteamentos* above, had built their own homes, even after the railway closed and the tracks removed in 1964. The APP river margin protection zone was never considered by any of the actors concerned.

Many residents here gained employment in factories and services, or else worked in the informal economy. Geraldo, a freight driver approaching retirement age, built his house there 'around 1980', though he explained that his father had earlier farmed a plot nearby, with coffee, bananas, chickens and pigs. The informal smallholding's location, he said, was exactly where the river now flowed. It had formerly meandered around the base of the hills on the eastern side of the narrow valley flood-plain. 'They moved the river over on this side', Geraldo exclaimed. 'That was the end of his farm!' An elderly neighbour, Eduardo, appeared in Geraldo's kitchen and filled in some gaps:

> When the river was moved, it was about 1945. [Before that] it passed behind [a current road along today's eastern riverbank]. So, there was an original [north-south] route, up on the hillside behind, and here [on the valley floor] there was no asphalt, there was nothing […] The state government completed the [current] route in 1960, and the plan was for another road on [the western, railway] side [of the river's new course]– so [the plan] was for two roads with the river in-between.

It can thus be argued that, rather than the homes of the Rua Ferroviária lying too close to the river – thus placing them at high risk of serious flood – the inverse is true: the river now lies too close to the homes. While repeated canalisation and alteration of the river course had been taking place in Nova Friburgo's centre since the early days of the settlement, its meanders through this northern end of the city were not removed until the Vargas regime of the 1940s, when it was redirected into a purpose-built canal through the centre of the valley, with the railway (and accompanying houses) to its west (see Figure 1). Industrial and road development followed, with the river eventually pushed close enough to the Rua Ferroviária for its residents to be deemed directly 'at risk'.

Figure 1: Looking north, the straightened River Bengalas in Nova Friburgo, 2013, with the homes of Rua Ferroviária on its western bank.

The RJ state planners, with the assistance of emergency federal funding and municipal support, had in effect used the 2011 event as their baseline for future flood risk and for residents' rights to environmental security. Human interventions over the river, having consistently failed to prevent flood for almost 200 years, were ignored – or at the very least considered as irrelevant parts of a pre-modern past. A senior official at INEA's headquarters in Rio stated: 'People will only have to leave if they are at risk of flood,' before adding emotively:

> And some of them settled there illegally, against environmental legislation. If they've cut trees down at the river's margins, then they're obliged to replant. [INEA] is paying indemnities for [appropriations] – even to people that don't have land title papers.

For Geraldo, however:

> There wasn't a single house on the riverbank [before the river was forced west]. And back then, in the 1980s [the then mayor] came to this house and *dançava* ('danced') on our veranda; gave a lecture to us to win our votes, all of that […] And when I went to legalise my little house here in that era, it cost me something like 8000 reais [R$].

The river, and the people along its course, were to be made neat, controllable and modern, as part of a human-owned landscape that would ascend out of nature (Oliver-Smith, 2004). With the realities of the past deemed backward and irrelevant – even the pursuit and attainment of land rights in the new democratic era – the most serious flood event in the city's history provided prestigious justification for both urban consolidation and improved (late) liberal governance (Braun, 2014; Povinelli, 2011). Offering recognition to the disaster as a natural phenomenon did likewise to liberalism, with its promise of a future of rights and justice, just as the chronic vulnerability of urban expansion was renewed afresh.

Conclusion

Writing on the 'ruptures' presented by environmental catastrophes, and the efforts to further embed urban infrastructures and capitals in response via 'resilience'-building strategies, geographer Bruce Braun states:

> At the very same moment that the age-old spatial divides of city and country, society and nature are transcended in a new [urban-global] regime […] a new distinction is enacted between the 'eventful' time of global environmental systems – characterized by rupture, tipping points, emergence – and the 'static' time of a liberal polity cocooned in an eternal present, in which the eternal repetition of the latter produces continuous ruptures in the former, yet can conveniently forget that it does (2014, p. 61; emphasis original).

The 'static' liberal polity refers of course to the chronic vulnerability of life in the margins – constantly promised betterment, human rights, citizenship, and legal-institutional functionality – while simultaneously cocooned within processes of urbanisation that result in new environmental responses, feedbacks, and ruptures. Recognising the eventfulness of disaster thus enables liberalism to reproduce the non-eventfulness of chronic vulnerability.

This chapter has attempted to propound this argument, drawing on the historical and recent experiences of the co-production of landscapes of social-environmental hazard, vulnerability, and liberal governance in Nova Friburgo, Brazil. Central to this is the perception inherent to human rights discourse of nature and environment as domains over which the social has control, as externalised and stable entities that humans can manipulate at will. The absence of substantive rights for the marginalised, in the face of social-

environmental threats, may thus lie within the episteme of thought that has sought to exclude the complexities of ecological space as it searches for resilient late-liberal capitalist urbanisation. It should thus be clear that, rather than to downgrade the achievement of substantive human rights, the agenda is to challenge the episteme upon which the discourse lies, in order to dissipate an anthropocentric universe that can be held accountable for ecological problems. These theoretical assertions, then, move us from an environmental politics of urbanisation – which makes the distributional justice of the liberal state its central theme, regardless of existent urban materialities – toward an urbanising environmental politics, which traces the social-environmental discourses and practices that lead to further urbanisation (Swyngedouw, 2015).

As a key front-line of both planetary urbanisation and hazard risk, Brazil, and more broadly Latin America, deserves greater critical attention over the production of such a potent environmental dynamic. Analysing the experience of Nova Friburgo in the lead up to the 2011 disaster, and in anticipation of further disaster events both here and elsewhere, the chapter has attempted to show how the liberal imaginary of human rights feeds into a (re)production of vulnerable space. Simply put, viewing an absence of distributional justice as the cause ignores the complexities of urban materiality which have been built alongside and 'in dialogue' with those hazardous environments. Promising a future of liberal justice suggests that the environment can be tamed and dominated by the urban, which gives form and motivation to planners' ever-unrequited dreams of a risk-free environment. As these dynamics are awarded urgency and prescience in an era of climate change and resilience building, it is ever more important to unpack vulnerability in the search for solutions.

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7. Human rights and social-environmental conflict in Nicaragua's Grand Canal project

Joanna Morley

Nicaragua's Inter-Oceanic Grand Canal (canal project) is a 278 km artificial waterway that is wider, deeper and three and a half times the length of the Panama Canal (Shaer, 2014). Once completed it is predicted that five per cent of the world's commerce that moves by sea will pass through it, doubling Nicaragua's GDP and lifting four hundred thousand people out of poverty (Usborne, 2014; Renwick, 2015).[1] While the canal would likely boost commercial activity and revenue in the region, the project carries strong economic and environmental risks (Lugo, 2015). Critics of the canal project say that the environmental and social costs of constructing the canal could be catastrophic (Renwick, 2015), including destroying or altering nearly one million acres of rainforest and wetlands (Shaer, 2014) and irreversible damage to Lake Nicaragua (the second largest freshwater lake in Latin America) affecting the nearly one million people who depend on it for drinking water (Collombon, 2015). In addition, the project cuts through two UNESCO biosphere reserves housing endangered species[2] and some of the most fragile, pristine and scientifically important marine, terrestrial and lacustrine ecosystems in Central America (Meyer and Huete-Pérez, 2014), also threatening multiple autonomous indigenous and Afro-Nicaraguan communities whose territories include the canal route.

Still, it is clear that Nicaragua is still one of Latin America's least developed countries, where access to basic services is a daily challenge (World Bank, 2017). Construction of the Grand Canal is seen as a Sandinista (FSLN)/Ortega legacy – to eradicate poverty in Nicaragua through its delivery of 10–15 per cent growth over the next five years. Without its construction, growth is predicted to be half of this figure and Nicaragua will continue to be dependent on foreign aid (Torres, 2016; Haworth Johns, 2013).[3] While his economic decisions have

1 The country of six million people has a per capita income of $1,790, and 42.5% of the population lives in poverty, according to the World Bank (Usborne, 2014; Renwick, 2015).

2 For data on the environmental impact of the canal project see also Guardado, 2014; Meyer and Huete-Pérez, 2014.

3 In 2011, Nicaragua's growth hit a record 5.1%, slowing to 4.9% and 4.5% in 2015 and 2016 respectively. The forecast for 2017 is 4.0%, the lowest rate in the last five years (World Bank, 2017).

proved fruitful relative to the rest of Central America's economic development (Perez, 2015),[4] the discrepancies between Ortega's political rhetoric and economic action have fuelled domestic condemnation of his administration from opponents and those who once supported him. Opposition politicians, including Victor Tinoco, argue that building the canal is against agrarian reform, which was the centrepiece of Ortega's Sandinista revolution (Rurode, 2014).

Sustainable development and human rights

The dilemma between exploiting natural resources for socio-economic development and defending both human and environmental rights represents a major challenge for Latin American countries (Raftopoulos, 2017, p. 390). Despite the radical constitutional reforms which have taken place throughout Latin America in the last two decades, strategies of development based on natural resource exploitation and mega projects continue to place constraints on the possibility of indigenous and peasant communities having meaningful participation in decisions that affect them (Cannon and Kirby, 2012, p. 136). Governments have placed great weight on generating economic growth by way of state interventions, with the aim of not only preparing the ground for market actors, but as a means of improving the lives and livelihoods of the majority of the population (Bull and Aguilar-Stoen, 2015, pp. 8–9). And yet the need to explore and exploit resources in ever more invasive ways impinges on the lands of indigenous communities living in countries with important resource reserves (Burger, 2014). Across Latin America the lack of public consultation and participation, threats to local livelihoods, indigenous rights, ecological justice and human rights (Swords, cited in Guardado, 2014), have fuelled the mobilisation of social movements and local communities demonstrating against extractive and development mega-projects. Most of the indigenous, rural and even urban protest movements in the region are about persistent environmental degradation and public policies, production processes and appropriations of territory (Martinez, 2012, p. 12).[5]

Neoliberal prescriptions that promoted a one-size-fits-all prescription of development are now being tested in debates on sustainable development and

4 Nicaragua ranks second among countries in Central America, maintaining growth levels above the average for Latin America and the Caribbean and with favourable prospects for foreign direct investment and trade (World Bank, 2017). Over the course of Ortega's tenure the region has seen double-digit investment and export growth (Perez, 2015) and Nicaragua's macroeconomic stability has allowed the country's decision makers to shift from crisis control mode to longer-term strategies to fight poverty. Massive debt relief by the International Development Association (IDA), the World Bank's fund for the poorest countries, has helped make this shift possible (World Bank, 2017).

5 See also Gensler, 2013.

climate change. Globalisation is influencing every aspect of environmental management, putting governments under pressure both to resist measures that they consider may be obstacles to growth, yet subscribe to an agenda on sustainability increasingly addressed by multilateral arrangements (O'Toole, 2014, p. 129). The manifest failure of the Structural Adjustment Programmes (SAPs)[6] of the 1980s prompted a major push in the 1990s for good governance and democracy and a desire from development thinkers to redefine development as something more than purely economic growth (Uvin, 2007). In recent years, human rights have assumed a central position in the discourse surrounding international development policies (Gready and Vandenhove, 2014). At the centre of the 2030 Agenda for Sustainable Development (Agenda 2030) are 17 SDGs and 169 targets that seek to 'stimulate action over the next 15 years in areas of critical importance for people, planet and prosperity'. Human rights are at the core of the entire range of goals and targets (O'Donaghue, cited in UNHRC, 2015b), and if not explicitly, a human rights based approach is implicit in the agenda (Ruckner, cited in UNHRC, 2015b). The SDGs aim to protect the planet from degradation through sustainable consumption and production, sustainably managing natural resources and taking urgent action on climate change (UN 2030 Agenda for Sustainable Development, preamble).

While there is an emerging consensus on the responsibility of business actors to respect human rights,[7] the protection of economic and social rights raises questions regarding the responsibility of private and economic actors for both promoting and violating human rights in a state-centric system of international governance (Freeman, 2002, p. 151; Rist, 2008). The protection of economic and social rights in international law falls only on the state. In practice, private economic actors are increasingly responsible for the delivery of infrastructure development projects and their environmental, economic and social impact. Examples from across the region demonstrate that local social and environmental concerns are subordinate to economic concerns, for governments trying to harness the wealth of their natural resources for economic growth, and for multinational corporations (MNCs) and international financial institutions (IFIs) seeking to consolidate forms of neoliberal governance (Sawyer and Gomez, 2014, p. 6). Therefore, there are a wide range of important critiques, including matters of fundamental political, economic and social concern, which identify many aspects of human rights praxis as being deeply problematic in the context of processes of accelerated globalisation (Stammers, 2009, p. 205). The state and private actors in many cases portray environmental human rights defenders, and those who help

6 The SAPs imposed economic restructuring on poor countries, to reduce spending on health, education and social policies, to ensure debt repayment on conditional loans from the IMF and the World Bank (Uvin, 2007).

7 See also UN Guiding Principles on Business and Human Rights, 2011.

to defend them, as criminals, characterising their opposition to 'important' projects or activities as against national interests or anti-development (URG, 2014, para. 11).

Social-environmental conflict

Schmink and Jouve-Martín explain that 'Latin America's historical dependency on natural resources, both for local livelihoods and to supply an evolving global market, has made environmental issues central in policy debates and in widespread contests over the meaning and use of natural species and habitats, carried out against the region's persistent legacy of inequality' (2011, p. 3). Characterised by their complexity, their varied subjects and the great diversity of the stakeholders involved (Correa and Rodriguez, 2005, p. 23), conflicts surrounding natural resource exploitation are often traversed by political, social, ethnic and economic claims, involving struggles against local, national and transnational elites by indigenous peoples, small farmers and other marginalised groups, as well as middle class actors sympathising with their cause (McNeish, 2012).

Latin America provided the test-ground for the imposition of this Washington Consensus – a model of neoliberal economic development premised on globalisation - that pursued a simplistic form of capitalism in which development was more or less coincidental with industrialisation and all its attendant process of technological advancement. In recent years, the neoliberal orthodoxy has been readdressed (Kingstone, 2010). Since 1999, a series of left-wing or progressive[8] governments have come to power in what can be seen as a reaction against neoliberal strategies and a broadening out of the debates on development (Gudynas, 2013a, p. 23). Driven by the high profits associated with natural resource extraction, governments have refocused their attention on the large-scale extraction of natural materials. Latin America's move away from the Washington Consensus model towards the Commodity Consensus, focused not on the re-design of the state but on enabling the large-scale export of primary products (Raftopoulos, 2017, p. 390) has marked the beginning of a new political-economic order that challenges existing state and social structures and curtails democracy in the region (Svampa, 2013).

As Svampa remarks, 'in terms of the logic of accumulation, the new Commodities Consensus adds to the dynamic of dispossession of land,

8 This group includes the governments of Néstor Kirchner and Cristina Fernández de Kirchner in Argentina, Evo Morales in Bolivia, Lula da Silva and Dilma Rousseff in Brazil, Rafael Correa in Ecuador, Tabaré Vázquez and José Mujica in Uruguay, and Hugo Chávez in Venezuela. Some would include the past administrations of Ricardo Lagos and Michelle Bachelet in Chile in this group and, with greater reservations, the Fernando Lugo government in Paraguay and the Ollanta Humala administration in Peru (Gudynas, 2013, note 6).

resources and territories whilst simultaneously creating new forms of dependency and domination' (Svampa, 2013, p. 118)[9]. The commitment by Latin American governments to expand the extractive economy has also led to the repoliticisation of minerals and a general unwillingness by leaders to consider demands for environmental justice or to allow civil society to play an increased role in mineral politics (Hogenboom, 2012). The Commodity Consensus has led to a new cycle of protests that look to transcend traditional ideological and class divisions and unite around the negative impact of extractive industries, notions of development, territorial sovereignty and the defence of the commons and biodiversity (Raftopoulos, 2017, p. 397).

According to O'Toole neoliberal policies remain largely intact in Latin America (O'Toole, 2014, p. 172). Svampa argues that a combination of three axes – euphemistically described as 'sustainable development', 'corporate social responsibility' and so-called 'good' governance, have created a shared framework of the neoliberal discourse that aims to legitimise extractive economic projects (Svampa, 2013, cited in Raftopulos, 2017, p. 390). Gudynas argues that the persistence of conventional development is symptomatic of 'how deeply rooted and resistant to change the ideologies of "modernity" and "progress" are in our culture' (Gudynas, 2013b, p. 168). To question development or the ideology of progress implies a critique of modernity itself (Escobar, 2005, cited in Gudynas, 2013a). The decentring of euromodernist perspectives in Latin America has however contributed to strengthening ethnic politics in the region in relation to ecology and environmentalism, and opened up critical new political spaces allowing for the expression of indigenous knowledge, traditions and cultural identity which had previously been oppressed (Andolina et al., 2005; Gudynas, 2011; Coletta and Raftopoulos, 2016), laying the foundations of today's social and environmental struggles. Social movements in the region are increasingly questioning the epistemological frameworks based on a dialectic system of inclusion-exclusion upon which the developmentalist socio-economic model is based (Raftopoulos, 2017, p. 390).

In the context of conflicts surrounding natural resource exploitation, intermediaries such as community leaders, non-governmental organisations (NGOs), human rights defenders and social movement activists experience human rights discourse 'betwixt and between, as a kind of legal or ethical liminality that can both empower the relatively powerless and also place them at a greater risk' (Goodale and Merry, 2007, p. 35). They are powerful in that they serve as knowledge brokers between culturally distinct social worlds, but they are also vulnerable to manipulation and subversion by states and communities

9 This turn towards natural resource extraction, which relates to a 'predatory and backward form of capitalism dominant in the nineteenth century' – the era of conquest and extractive colonialisation – has been described as 'imperialism of the twenty-first century' (Veltmeyer and Petras, 2014, p. 21).

(Merry, 2006). This chapter uses secondary sources and documentary evidence to explore the dynamics of the social-environmental conflict surrounding Nicaragua's Grand Canal project. Focussing on the economic, environmental and human rights concerns of all the actions of all the actors involved in the conflict – including local communities along the proposed canal route, the Nicaraguan government and the Hong Kong Nicaragua Development Group (HKND Group), the Chinese firm behind the canal project – the chapter aims to offer a holistic understanding of the practice of human rights and different conceptualisations of development by focussing on what participants in human rights networks tell us about the meaning and experiences of human rights 'as it relates to other forms of social practice' (Merry, 2006).

Nicaragua's Grand Canal project

The canal project would be the largest civil earthmoving operation in history, requiring the excavation of approximately 5,000 Mm^3 of earth, the mobilisation of more than 2,000 pieces of major construction equipment and an estimated workforce of 50,000 people. Construction would need to occur simultaneously in three separate segments: the West Canal (from the Pacific coast), Lake Nicaragua, and the East Canal (from the Caribbean coast). It would include more than 10 mega projects: the canal itself, two locks (each with their own control centre and electrical substation), a dyke, a stand-alone dam below Lake Nicaragua, access and maintenance roads, a bridge over the Pan American Highway, new electrical transmission lines, two cement plants and aggregate quarries. The plans also include a Free Trade Zone including commercial developments, such as an airport, tourist hotels and approximately nine worker camps along the canal route (HKND Group, 2014; Luis Carlos Buob, 2016, cited in González, 2016).

The HKND Group propose to cut a 105 km (65-mile) channel across Lake Nicaragua so deep and wide that it would require the largest wet-excavation project ever conducted (Schneider, 2015). Once operational, the canal and locks would operate 24 hours per day, year round, with 14 transits per day and a combined annual average daily water demand of 59.2 m^3 per second, based on predicted vessel traffic in 2050. The Project would obtain power from the Agua Zarca Hydropower Project and the canal would require regular maintenance dredging, currently estimated at approximately 120,000 m^3 per year (HKND Group, 2014, p. 32).

The canal project broke ground for preliminary engineering in December 2014; however, there are still doubts surrounding whether the canal will actually be built, and a question mark hangs over the economic viability of the project, the legality of how it is being developed and the benefits it will bring to the local population (Gomez, 2014). According to a 2015 survey by M&R

Consultores, 59.8 per cent of the Nicaraguan people surveyed fully approved the construction and 18.7 per cent approve in a partial way. 65.7 per cent of the population considered it as a serious project and believed that it would become a reality if studies determined that it is feasible. In the environmental area, 48.4 per cent of the people hold the opinion that the waterway is an opportunity to restore and preserve Lake Nicaragua. 50.1 per cent believe that it will be beneficial for owners of properties located along the route (*Prensa Latina*, 2015a).

The canal concession

In June 2013 Canal Law 840 was passed approving the construction of the Grand Canal during a seven-day Congressional session without parliamentary debate, public consultation or prior feasibility and environmental impact studies (Perez, 2015). The Nicaraguan constitution was amended in December 2013 to make accommodations for the new law (Haworth Johns, 2013) which grants HKND Group access and navigation rights to Nicaragua's territorial waters, with the right to 'extend, expand, dredge, divert or reduce' them, as well as 'the right to expropriate land and natural resources as it sees fit for the success of the project and sub-projects' (Guardado, 2014). The concession granted HKND the exclusive rights to plan, design, construct and thereafter operate and manage the Nicaragua canal and the other associated projects for up to 100 years (Xu and Ying, 2015).

The HKND Group is a privately-held international infrastructure development firm headquartered in Hong Kong and with offices in Managua, the capital of Nicaragua. Speculation of the involvement of the Chinese government in HKND Group surrounds the canal project although HKND Group state that they are carrying out an international project, with chairman Wang Jing publicly stating that the project is independent and strictly commercial, 'there was no order from the Chinese government' (Pang Kwok Wai, 2015, cited in Xu and Ying, 2015; Boehler, 2013). Observers suggest that although the Chinese government is not actually backing the Nicaragua project, they are interested in it, and will 'wait and see how things progress before deciding what role, if any, to take' (Myers, 2015, cited in Knowledge@ Wharton, 2015).

According to the HKND Group, the development of the canal project has the potential to transform global trade, and make Nicaragua an important hub for transportation and logistics (HKND Group, 2015a). The 50–year rights for HKND Group to build the canal are not tied to a legally defined route and legal documentation protects the agreement from governmental changes. The law also removes the Nicaraguan government's right to sue the HKND Group in national or international law courts for any environmental damage during

the study, construction and operation of the waterway (Silva, 2015). Under the concession agreement, the HKND Group would pay $10 million per year to the government once the canal is in operation and after the first decade Nicaragua would be granted a 10 per cent increase in ownership stake every 10 years (Renwick, 2015).

Environmentalists and human rights activists, including the Cocibolca Group (a coalition of environmental organisations), Pro-Sandinista small-holder indigenous farmers and Pro-contra ranchers (White, 2015a) warn that the rapidity of the decision and the terms of the agreement between the HKND Group and the Nicaraguan government, plus the project's unclear financial backing, set in motion a nightmarish scenario fraught with violence surrounding land expropriation, depletion of the region's largest source of freshwater and destruction of biodiversity (Szakonyi, 2015; Haworth Johns, 2013). The HKND Group insists it is engaged in intense analysis and consultations to ensure that the engineering, economic, financial, social, and environmental aspects of the canal project are carefully developed, working with a global team of experts with deep experience and capabilities (HKND Group, 2015b).

Economic considerations

A 2015 report by the Economic Commission for Latin America and the Caribbean (ECLAC) assessed that the canal project could have significant impact on the FDI inflows for Nicaragua in the future (Franco, 2015, cited in Sosa, 2015). Observers have noted that there is undeniable promise with the project, as Nicaragua is a logical geographical route and is the safest country in Central America, with ample opportunities for foreign investment, boosted by attractive social and business conditions (Council on Hemispheric Affairs, 2014; Sosa, 2015). These conditions include the policy of the Sandinista government, from 2007, of dialogue and consensus with business, established in the Constitution and included in a new Law of Chambers, to reinvigorate a free trade zone regime that has led to increased exports from the country (Sosa, 2015). And yet on the World Bank's rankings of Best Places to Do Business, Nicaragua ranks 119th out of 182 nations – well below countries such as Colombia, Peru and Mexico (World Bank, 2015; Knowledge@Wharton, 2015). Sociologist Freddy Franco has claimed that the new interoceanic waterway will fundamentally contribute to the economic and social growth of Nicaragua, particularly to the social transformation goals of Nicaragua's National Human Development Plan, including poverty alleviation, job creation, more balanced distribution of wealth and a sustainable and diversified economic development. Furthermore 'the Canal will provide us with the political and economic support integral to national sovereignty, and will place Nicaragua in a stronger position in the

international arena' (*Prensa Latina*, 2015b). Trade unions have also welcomed the canal as a way out of poverty.

In June 2015, the canal project was awarded the 'Strategic Project of the Year' and 'Job Creation Project of the Year' awards at the 2015 Latin American Infrastructure Leadership Forum, as the project 'demonstrated leadership, tenacity and imagination', and will serve as models for vastly increased infrastructure investment in the region' (HKND Group, 2015c). HKND Group maintain that 'international standards are the key to securing global financing for the canal project' (Pang Kwok Wai, cited in Xu and Ying, 2015) and that 'HKND Group is committed to strictly follow all international standards, and execute proper control, mitigation and offset measures for the canal project's environmental and social impacts, ensuring that the Nicaragua Grand Canal will achieve net positive impact in these two aspects' (Bill Wild, 2015, cited in HKND Group, 2015c).

According to FSLN deputy and general secretary of the National Workers Front (FNT) Gustavo Porras, 'Environmentalists who are speaking about this are not taking into account that there is enormous poverty here and that the real danger to our country is this continuing level of poverty' (*Nicaragua Now*, 2014, p. 8). However, critics of the project, including Nicaraguan economist Julio Francisco Báez, contend that as a project of this magnitude is inherently transitory, so are the jobs it introduces. The economic model of mega-infrastructure projects is such that the local economy is entirely excluded from the long-term benefits of a 'private canal enclave' as evidenced by Panama's Canal Zone. The Canal will become self-sustaining and thus purely an obstruction of land from the perspective of local landowners, without the benefit of jobs, once built. In its wake, Nicaragua's localised, tradable activities such as agriculture, cattle raising, and the agro industry will be left uncompetitive within the global market, thus exacerbating the income inequalities between the elites benefiting from a privatised project and the largely indigenous local economies excluded from access to Nicaragua's wealth (Báez, 2015, cited in Perez, 2015).

Richard Feinberg, a professor at the University of California and non-resident senior fellow at the Brookings Institution, points out that Law 840 and the HKND concession agreement 'completely assign all sovereignty rights not to a foreign government, but to a foreign company' (Feinberg, 2015, cited in Renwick, 2015). While in 2013 Nicaraguans received in remittances 100 times the $10 million per year that HKND will pay to the government while the canal is in operation (Renwick, 2015; Foreign Policy, 2015), commentators observe that by granting a Chinese billionaire the ability to circumvent the Nicaraguan legal system and carte blanche to bisect the country, Ortega is decisively favouring a capitalist reform agenda at the expense of his already precarious socialist populism (Renwick, 2015). Furthermore, in November

2016 a report by the International Federation for Human Rights (IFHR) concluded that under the concession deal 'constitutional and legal guarantees provided for by the Nicaraguan law are not respected' (IFHR, 2016, cited in *BBC News*, 2016).

Environmental concerns

The HKND itself has recognised that the route finally chosen for the canal, a shipping channel 278 km long, 91 feet deep and up to 1,700 feet wide (Shaer, 2014)[10] will affect internationally protected nature reserves that are home to at least 40 endangered species of birds, mammals, reptiles and amphibians (Silva, 2015). The canal project will disrupt animal migration patterns and ecological dynamics as it cuts through the Cerro Silva Nature Reserve and the Indio Maiz biological reserve, which forms part of the UNESCO protected Mesoamerican Biological Corridor (CBM) that runs through Central America. The ecosystems of the CBM are already experiencing rapid destruction. The biodiversity-rich wetlands of San Miguelito and Bluefields, protected by the Ramsar Convention list of wetlands of international importance, will also suffer from dredging, sedimentation, invasive species and pollution, while shipping and deep-water ports on the Atlantic and Pacific coasts will affect the habitats of endangered sea turtles, coral reefs and mangroves (Meyer and Huete-Pérez, 2014, p. 288).

Environmental concerns particularly focus on the impact of dredging a 105 km channel, possibly the biggest dredging job ever across Lake Cocibolca (Lake Nicaragua), the second biggest source of freshwater in Latin America and an essential source of drinking water (Schneider, 2015; Zuidema, 2015). On 28 July 2010, the United Nations General Assembly (UNGA) adopted resolution 64/292 that explicitly recognised the human right to water and sanitation and acknowledged that clean drinking water and sanitation are essential to the realisation of all human rights (UNGWP, 2013, p. 5). Moreover, according to the General Law on National Waters, sources of water intended for human consumption have the highest and unwavering priority for the Nicaraguan state (UNGWP, 2013, p. 2). The only independent environmental impact report on the canal project (by the Centro Alexander von Humboldt) concluded that dredging the lake at a depth of more than 30 m, displacing millions of tons of sediment, could radically alter and potentially destroy the biodiversity of the lake (Collombon, 2014). Plans to use the lake as the reservoir for the canal's lock system, requiring dams to be constructed below it in an area of frequent seismic activity, would increase the risk of local water shortages and flooding while salt infiltration in the lock zone (as per the locks of the Panama Canal)

10 Wider, deeper and three and a half times the length of the Panama Canal (Shaer, 2014).

would transform a free-flowing freshwater ecosystem into an artificial slack-water reservoir combined with salt water (Meyer and Huete-Pérez, 2014, p. 288).

The HKND Group contend that industrial production and human activities linked to deforestation of the shore have already caused serious pollution and severe sedimentation of the lake, while Executive Vice President of HKND Group Pang Kwok Wai has said that construction of the canal and locks will not cause saltwater intrusion, but divert rivers draining into the Caribbean Sea back to Lake Nicaragua ('East-to-West Water Diversion') which will improve the condition of water resources in Lake Nicaragua. Asserting that 'amid criticisms in the Western media, only one article printed by a less influential US magazine sounds reasonable to us'. In the article a geologist reported a crack at the bottom of Lake Nicaragua which would pose a potential risk to construction works for the canal project. Pang Kwok Wai reported that 'for that purpose we have sent a group of professionals for site investigations and the results showed the crack is not severe' (Pang Kwok Wai, cited in Xu and Ying, 2015).

In March 2015, the HKND Group used the submission to the Nicaraguan government of its own environmental and social impact study (ESIA), completed by UK-based firm Environmental Resources Management (ERM), to publicise the 'substantial changes' made to the final route selected for the canal, and the 'mitigation measures taken to protect the lake'. It included bypassing a river that traverses wetlands the east side of the lake at an additional cost of $700 million, and the forests, as well as the resettlement plans for about 6,800 families that live along the canal route. The ESIA, probably the most complicated one in the world, asserts that the canal project will comply with international standards as stated in the Equator Principles statement (Wild, cited in Agurcia and Blanco, 2015a, pp. 4–5; Xu and Ying, 2015).

According to HKND Chief Project Advisor Bill Wild, 'once completed, the canal will serve as a protective barrier for the Indio Maiz Biological Reserve, protecting this particular area from the further encroachment by human activities. The project will reserve a 10 km wide "no-go area" in the CBM so as not to affect wildlife migration in the area'. Bill Wild went further to suggest that because the forestation in Nicaragua is degrading at an alarming speed due to the widespread traditional agriculture practice accompanied with deforestation 'the canal project is the only means to halt the current degradation of the Nicaraguan forests and prevent destruction of the handful of untouched ecological reserves, such as Indio Maiz' (Wild, 2015, cited in HKND Group, 2015c). However, in June 2015, an external independent panel of experts, invited to review several chapters of the ESIA, raised serious concerns about the scientific evidence underlying ERM's assessment, asserting

that the 'massive social, economic and environmental impacts, with the little information available, have not been properly assessed' (Williams-Guillén et al., 2015a; Adkins, 2015). As environmentalist and government advisor Jaime Incer Barquero has commented, the fact that the ESIA was contracted by the same firm that will carry out the project, however well respected they are, makes the result biased and gives cause for concern over the price paid by Nicaraguan sovereignty in the quest for economic development (Haworth Johns, 2014). 'Holding the ESIA in secrecy undermines the power of the Nicaraguan citizenry to assess the project, and calls into question the legitimacy of the entire ESIA process' (Williams-Guillén, 2015b).

ERM and the HKND Group executives joined government authorities in asserting that the canal construction is safe and feasible (Schneider, 2015). The HKND Group engaged Nicaraguan Environmental NGO FUNDAR to develop the first Biodiversity Management Plans for the canal project and is keen to publicise its Educational Reforestation Program for watersheds along the canal alignment in Rivas department (HKND Group, 2016a; HKND Group, 2016b). It also asserts that 'if we [HKND] manage to mitigate, control and compensate the impacts of the project, then the canal, in the end, will bring a net positive impact, i.e., with the protection of the Indio Maiz and the Mesoamerican Biological Corridor' (Ward, cited in Agurcia and Blanco, 2015b). Furthermore, in February 2015, HKND Group announced that more than 15,000 archaeological artefacts collected during the ESIA for the canal project, which contribute to understanding the ancient cultures and economy of Nicaragua before the conquest, were handed over to the Government of Nicaragua (Xu and Ying, 2016).

ERM themselves recommended that HKND Group and Nicaragua authorities pursue research that responds to the concerns raised by the special panel and other science and environmental NGOs and had been granted a three-month extension to undertake further environmental studies (Schneider, 2015). In December 2015, the Nicaraguan government formally approved the ESIA conducted by ERM, thereby granting formal permission for HKND to begin what canal commission President Manuel Coronel called the 'structural design and construction processes' (White, 2015a). However, the November 2016 report of the IFHR concluded that 'no element related to sustainable development has been included in the project' and reported 'hydrocarbon pollution, salinity and turbidity problems' in the project design (*BBC News*, 2016).

Local communities along the canal route

The HKND Group acknowledges that the resettlement of 27,000 residents along the canal route is even more important and challenging than any

other technical problems that might arise during the construction phase of the project (Xu and Ying, 2015). They contend that they have committed to respect the local population, culture and heritage of Nicaragua and to serve the best interests of the region (HKND Group, 2013). HKND Group maintain that overall, the affected area under the resettlement program is not significant and that compared with the poor local housing conditions, resettlement houses provided by the Government of Nicaragua will be of much better quality in general (Xu and Ying, 2015). The Nicaraguan government and HKND Group plan to build 27 resettlement villages for 7,000 families (Otis, 2015) and maintain that those families opting for cash compensation will receive fair market prices for their houses' (Ward, cited in Agurcia and Blanco, 2015a, pp. 4–5). However, critics say provisions for compensation severely undervalue the properties at risk (Renwick, 2015). According to minister Paul Oquist the resettlement plans, which offer a mix between cash and living in a new house with a new agricultural set up for them to be able to work and have sustainable livelihoods, mean that everyone will be better off than they were before, and that 'the entire region's economy along the route will be dynamised by the canal' (Oquist, cited in White, 2015a).

Octavio Ortega, leader of the National Council in Defence of Land, Lake and Sovereignty, a coalition actively opposing the passage of Law 840, fears that if the canal project does go ahead land will be confiscated for tourism development. Moreover, developers will base their offers of compensation on the assessed tax value, knowing that many property owners purposefully undervalue their properties to reduce their tax burden (Otis, 2015). The report of the IFHR in November 2016 points out that up to 120,000 residents along the canal route have no way of relocating and there is insufficient compensation for them, 'the [land] expropriations process doesn't provide for any administrative or judicial recourse, but does provide for a blatantly insufficient compensation' (IFHR, cited in *BBC News*, 2016).

Indigenous peoples

International law has developed a clear principle of the right of indigenous peoples to permanent sovereignty over natural resources, based on the principle of self-determination contained in common article 1, paragraph 2 of the two International Covenants on Human Rights and on the United Nations Declaration on the Rights of Indigenous Peoples (UN DRIPS, 2007).[11] The principle of permanent sovereignty is an integral part of the right of self-determination, including the right to participate in the governance of the state and the right to various forms of autonomy and self-governance

11 See also IACHR, 2009.

(UNHRC, 2012, para. 13). According to the International Working Group on Indigenous Affairs (IWGIA), despite the Nicaraguan government employing a pro-indigenous rights discourse that is favourable to natural resource conservation, indigenous peoples are feeling ever more threatened on their territories (Mikkelsen et al., 2014, p. 94). The Nicaraguan Constitution of 1987 recognises the indigenous cultures that reside on the land and their right to maintain their languages and cultures. Two additional laws, 28 and 445 (2003), grant autonomy and 'the use, administration and management of traditional lands and their natural resources' to the indigenous and Afro-Nicaraguan peoples living in the South Atlantic Autonomous Region (RAAS). Additionally, Nicaragua signed the DRIPs in 2008 and ratified International Labour Organisation (ILO) Convention 169 (1989) in 2010 guaranteeing prior consultation before projects including natural resource exploitation on indigenous territories (McGill, 2015).

Cultural survival

Approximately 52 per cent of the proposed canal route passes through traditional lands belonging to the indigenous Rama and nearby Kriol community who live in the RAAS. The RAAS is a 407,000 hectare area along the Caribbean coast of Nicaragua which is home to six indigenous and three Afrodescendant communities totalling 15,000 people (White, 2015a). Minister of Foreign Affairs for Indigenous and Afrodescendants in Nicaragua, Eloy Frank, confirmed that the canal will pass through eight communities [municipalities] of the Rama-Kriol territory, and that these communities have been informed through meetings and have approved the project (González, 2016). The HKND Group states that the resettlement plan involves 25 indigenous households. They plan to lease land from these indigenous communities for 100 years as 30 km of the canal will pass through their land (Xu and Ying, 2015).

In the Inter-American human rights system, the American Convention on Human Rights (ACHR) states that territory is 'a fundamental basis for the development of indigenous communities' culture, spiritual life, integrity and economic survival (ACHR, 1969, art. 21). It encompasses the use and enjoyment of natural resources and is directly related, often a pre-requisite, to enjoyment of the rights to an existence under conditions of dignity…' (IACHR, 2009 para. 2). In *Awas Tigni v Nicaragua* (IACHR, 2001), the Inter-American Court of Human Rights (IACtHR) concluded that access to traditional lands is 'a material and spiritual element which they [Awas Tigni indigenous community] must fully enjoy... to preserve their cultural legacy and transmit it to future generations' (*Awas Tigni v Nicaragua*, IACtHR, 2001, para.141). Therefore, if the value of indigenous territory is as a material and spiritual element to preserve their cultural legacy and transmit it to future

generations, then for indigenous peoples monetary compensation in exchange for leasing their lands is irrelevant.

Mónica López Baltodano, executive director of Fundación Popol Na, a pro-democracy NGO, contends that the canal route will affect seven protected areas, destroying approximately 1,930 km. of diverse forests, affecting 13 municipalities [five more than stated by Eloy Frank], damaging 96 educational centres, 35 cemeteries and 90 temples and churches (López Baltodano, 2016, cited in González, 2016). However, the HKND were keen to point out that anthropologists participated in the ESIA and related work. Furthermore, they acknowledged that although 'the resettlement plan for the indigenous people is fairly complicated', including the need to build several new churches to replace the many churches along the canal project, and 'the need to resettle families in a similar living environment including relocating their family graves, etc … the final route selected has generally fewer knotty matters' (González, 2016). Yet Rodolfo Stavenhagen, former United Nations Special Rapporteur on the rights of indigenous peoples (UNSRIP), has noted that wherever large-scale projects occur in areas occupied by indigenous peoples:

> it is likely that their communities will undergo profound social and economic changes that are frequently not well understood, much less foreseen, by the authorities in charge of promoting them [...] The principal human rights effects of these projects for indigenous peoples relate to loss of traditional territories and land, eviction, migration and eventual resettlement, depletion of resources necessary for physical and cultural survival, destruction and pollution of the traditional environment, social and community disorganisation, long-term negative health and nutritional impacts as well as, in some cases, harassment and violence (UNSRIP, 2003, p. 2).

A loose coalition of more than 30 concerned groups, including indigenous and Afro-Nicaraguan peoples of the RAAS (Mikkelsen et al., 2014, p. 98),[12] fear that the canal project will severely affect communities' ability to 'maintain their languages and cultures, as well as to preserve the communal forms of land property and their exploitation, use, and enjoyment' as enshrined in the 1987 Constitution (para. 5). They filed a suit contesting Law 840 with Nicaragua's Supreme Court in 2013. The suit, one of 31 appeals, claimed that the law which allowed the government to award the canal contract to the HKND Group without consulting the affected communities or issuing environmental impact studies violated 23 articles of the Constitution and other international instruments that protect indigenous peoples (Mikkelsen et al., 2014, p. 98). As indigenous congressman Brooklyn Rivera stated, 'We can't approve of this

12 These include Mískitu of Tasbapouni, Kriol, Monkey Point indigenous communities, and the Indigenous Creole communities of Bluefields (Mikkelsen et al., 2014, p. 98).

concession without information about it and this law can't substitute the legally established rights of the indigenous under Law 445' (Haworth Johns, 2013).

In December 2013, the Supreme Court ruled that Law 840 was constitutional and rejected all the appeals in one ruling.[13] This ruling is based on a resolution (703 23–05–2013) issued by the Regional Autonomous Government of the RAAS (CRASS) which cites their exclusive right to take decisions regarding the indigenous territories. The Supreme Court ruling hinged on the fact that 'the plaintiffs, in the capacity in which they are acting, are communal authorities from the noted municipalities, but they do not form part of the CRAAS, which alone has the representation and competence to issue resolutions; and so, consequently, there is no reason to consult them' (Mikkelsen et al., 2014, p. 99). The negligent attitude of the CRASS in publicising the canal as the only development pathway for the region and lack of attention to regularising the indigenous territories has led to a distancing between the regional autonomous government and the territorial and communal authorities for each of the six indigenous and three Afrodescendant communities of the RAAS (Mikkelsen et al., 2014, p. 99).These communities of the RAAS, with a coalition of 11 groups including environmental and legal organisations, submitted a petition for protective measures to the Inter-American Commission on Human Rights (IACHR) citing the rights violations inherent in the canal Law 840 contrary to DRIPS, the ACHR as well as ILO Convention 169 (White, 2015a).

At the IACHR hearing in March 2015, Rama leader and lawyer Becky McCray conveyed the damage the canal project would do to the culture of the region's indigenous communities: 'If this project gets implemented, there is a strong possibility that the Rama language spoken in Bankukuk Taik will disappear as the last people who speak that language get forcibly displaced from their land' (McGill, 2015). Environmentalists and local communities also fear that should the communities be able to keep their traditional lands, the environmental damage from the canal project will be so severe that the region will no longer be able to sustain traditional livelihoods, a threat to the right to territorial property as a fundamental basis for the development of indigenous communities' culture, spiritual life, integrity and survival. Representatives of the government at the IACHR hearing rejected the allegations, which they blamed on 'political interests', while arguing that the canal project is environmentally friendly (Silva, 2015).

Participation and Free Prior Informed Consent (FPIC)

Héctor Thomas, president of the Rama-Kriol territory, has clarified that 'no leader can be against development. What we can be against is the way in which

13 For details of the court ruling, see also Mikkelsen et al., 2014, p. 98.

we are not taken into account; what we want is to be taken into account'. In the words of Luis Castillo, a member of the Bankukuk community, 'We cannot stop the canal. What we can do is sit down, and if this is going to happen, we must negotiate' (González, 2016).

Law 840 or 'the Canal Agreement' was passed through government by President Ortega with a vote of 61 to 35. HKND Group's offer to fund the canal mega-project was agreed with the repeal of laws which defend the country's natural resources and all bodies of water, including Lake Nicaragua, its tributaries, all drinking water and sanitation. In doing so, HKND Group has been granted 'access to and navigation rights on rivers, lakes, oceans and other bodies of water in Nicaragua' (Haworth Johns, 2013). No formal discussions took place with indigenous peoples, and there are concerns about inclusion, participation, and the receipt of compensation if the canal project impacts their territory. Opposing Liberal Party congressman Luis Callejas said his party fears the law because it 'violates constitutional guarantees to private property, natural resources and indigenous lands ... the canal will carve up Nicaragua and leave our national sovereignty in pieces' (Guardado, 2014). The tension levels were revealed when Xochilt Ocampo, the only Sandinista lawmaker who failed to support the law, was removed from office ten days later without explanation (Haworth Johns, 2013).

The Inter-American Court of Human Rights (IACtHR) established the standard for the need to obtain the consent of indigenous peoples in the case of *Saramaka v. Suriname* (IACtHR, 2007), further affirming in *Sarayaku v. Ecuador* (IACtHR, 2012). 'The safeguard of effective participation… must be understood to additionally require the free, prior, and informed consent [of indigenous peoples], in accordance with their traditions and customs' (*Saramaka v. Suriname*, IACtHR, 2007, para. 137). From the evidence detailed above it would appear that the Nicaraguan government failed in its obligations to the indigenous communities whose territory is affected by the canal project, in not providing the right of effective participation that additionally requires the safeguard of FPIC, as mandated in *Sarayaku v. Ecuador*. Furthermore, under Nicaraguan Law 445 the communal lands of the RAAS are 'indissoluble and eternal, they cannot be donated, sold, leased nor taxed' (Republic of Nicaragua, 2003, art.36).

Despite the ambiguity surrounding the provision of FPIC, as referred to by Burger (2014, p. 16), general agreement persists on the obligation of states to at least undertake consultations with indigenous communities that may be affected by development projects. In some interpretations of the right to Free, Prior and Informed Consent, communities are not allowed the power of a veto of major development projects on their land, but they can choose to withhold consent until they are satisfied with the projects' plans – however

long that might take. According to HKND Group, the firm is committed to operating according to international best practices in terms of transparency and accountability (HKND Group, 2015a). HKND's admission in January 2015 that although they had delivered a series of presentations to communities affected along the canal route, no formal consultations have taken place (White, 2015a) is evidence that the government repeatedly failed to respect indigenous rights of autonomy and FPIC. At the hearing of the IACHR March 2015, Becky McCray declared to the Commission, 'The state's omission of material in consultation with indigenous peoples and Afro-descendants denies our relationship to our lands and our social structures, flagrantly violating our territorial rights, our right to participation… [and] to self-determination' (McGill, 2015).

Two months prior to ERM's ESIA being approved and permission being granted to HKND to start the construction phase of the canal project, the government of Nicaragua held a total of nine public consultation meetings in Managua. From 24 September to 1 October 2015, senior officials of HKND Group delivered the key findings of the ESIA and addressed public concerns surrounding the project. According to HKND Group the meetings, which lasted for 28 hours in total, attracted around 3,000 participants including, among others, representatives from communities along the canal route, media, university students, labour unions, scientists, youth groups, the Catholic church and other religious groups, environmental NGOs, plus representatives of the United Nations agencies, European Union, International Monetary Fund and Pan American Health Organisation and private entrepreneurs from other Central American countries (HKND Group, 2015d).

However, in January 2016 members of the Rama and Kriol territories condemned central government pressure to consent to the canal project, with the communal authorities claiming their right to free, prior and informed consent had been violated. In a statement issued in February 2016 by the director of Amnesty International Americas, Erika Guevara, the organisation declared that 'trading on people's basic human rights for the sake of money is not only morally questionable but also illegal. Authorities in Nicaragua must ensure they listen to those who will be most affected by the building of the canal, and take their views into account for decision making'. The statement concluded that despite the communities' requests for information, to date they have not been properly informed of the canal's impacts on their livelihoods, territory and culture and Nicaragua is sidelining local communities in its multi-billion-dollar canal project (Amnesty International, 2016).

Peaceful Assembly and Association

According to the United Nations Special Rapporteur on the right to Freedom of Peaceful Assembly and of Association (UNSRFOAA), social conflicts experienced in the context of natural resource exploitation are a stark demonstration of the severe consequences and counterproductive nature of the failure to provide any outlet for excluded groups to air their grievances (UNHRC, 2015a, para.11). Nicaraguan citizens have been protesting to voice their concerns around national sovereignty, ecological impact, and the social disruption of the canal project (Amnesty International, 2016; Runde, 2015). Pedro Alvarez, professor of civil and environmental engineering at Rice University, told the public hearing at the IACHR in March 2015 that there has been almost no public debate about the canal or its goals, risks and targets (Alvarez, 2015, cited in Knowledge@Wharton, 2015). With the canal project managed directly by the president, and the concession agreement with HKND Group handled by the president's son, the finance minister himself also complained about the lack of information around project costs (Collombon, 2014). According to Jorge Huete-Perez, a biologist who is studying the environmental impact of the proposed canal, 'When you do things in an un-transparent manner…people are going to start speculating about corruption' (Huete-Perez, 2015, cited in Otis, 2015)[14] and according to Octavio Ortega, many landowners distrust the project because it has been shrouded in secrecy (Ortega, 2015, cited in Otis, 2015).

As the preliminary engineering commenced at the end of December 2014, the official launch events, one in Rivas department on the Pacific coast and one in the capital Managua, took place amid road closures and community protests in El Tule, Río San Juan and Rivas city. Protests in Rivas saw hundreds take to the streets, while in Managua thousands of protesters, including more than 1,000 campesinos, complained that the authorities and the police tried to stymie the protests by erecting barricades and harassing protestors (White, 2015a). On 24 December riot police and the military allegedly used excessive force, deploying tear gas and firing rubber bullets at protesters, to try to clear the El Tule roadblock on the Pan-American Highway (*Al Jazeera*, 2014). Dozens of protesters were injured amid reports of two deaths, although the police denied the claims (Runde, 2015). Octavio Ortega of the National Council in Defence of Land, Lake and Sovereignty was arrested along with Ana Margarita Vijil, President of the Movimiento Renovacion Sandinista (MRS) (a left-wing splinter group of the FSLN) and 33 other anti-canal protesters; Ortega was beaten by the police (Otárola, 2015). Although the Nicaraguan police argued

14 In November 2014 the Corruption Perceptions Index by Transparency International listed Nicaragua as the third most corrupt country in Latin America (Council on Hemispheric Affairs, 2014).

that the protestors used guns, machetes, stones and sticks to attack police, organisers claimed that their demonstration was peaceful (Panteres, 2014; Knowledge@Wharton, 2015).

The UN Special Rapporteur on Human Rights Defenders (UNSRHRD), and the Special Rapporteur of Freedom of Assembly and of Association (UNSRFOAA) have stated that all peaceful protests and assemblies are legitimate, that interference with peaceful assemblies, including dispersal, 'should meet the strict tests of necessity and proportionality stipulated in international human rights standards' and that where violence occurs, the state must take measures to de-escalate tensions and hold the violent individuals, not the organisers, to account for their actions (UNHRC, 2015a). Furthermore, the UNSRFOAA holds the view that any interference with peaceful assemblies, including the right to freedom of assembly, cannot be limited based solely upon an assembly's message or content (UNHRC, 2015a, paras. 39 and 40). In October 2015, thousands of rural residents from across the country marched to the capital Managua to protest against the construction of the canal. Many Nicaraguan residents travelled for days to the protest as police reportedly set up multiple roadblocks in a bid to prevent them from reaching the capital (White, 2015a).

The organisers of the national march against the canal on 13 June 2015 claim that the movement against the canal project has 'great potential', with Mónica Baltodano of Fundación Popol Na asserting that 'People are upset this goes beyond the canal' (Dyer, 2015). According to Minister Paul Oquist, the government view continues to be that the protests will have a short shelf life (Oquist, 2015, cited in *Democracy Now*, 2015). However, as of June 2015 there had been approximately 50 protests against the canal project in the preceding year (Otis, 2015). Octavio Ortega told the *Tico Times* that the government had created an atmosphere of intimidation to stifle dissent and alleged that the military had been harassing peasants under the pretence of protecting the environment in Ometepe, on Lake Nicaragua (Dyer, 2015).

Harassment of Human Rights Defenders (HRD)

The UNSRFOAA has deemed human rights defenders in the context of natural resource exploitation as the most at risk from attacks and reprisals (Kai, 2015, p. 30). In February 2016, the European Parliament issued a resolution condemning the lack of protection for human rights activists in Nicaragua, placing special emphasis on the case of Francesca Ramírez, a colleague of Octavio Ortega's in the National Council in Defence of Our Land, Lake and Sovereignty. The resolution urged the national and local police forces to 'refrain from harassing and using acts of reprisal against Francisca Ramirez for carrying out her legitimate work as a human rights defender' (European Parliament,

2017). In December 2016, Secretary-General of the Organization of American States (OAS) Luis Almagro visited Nicaragua to discuss allegations of attacks on democracy with President Ortega. During this visit police convoys besieged the local community where Francisca Ramirez lives and works in order to prevent her and other leaders of the movement from meeting with Almagro. 'They partially destroyed the main bridge out of the area, confiscated Ramírez's work vehicles and held suspected members of the movement's Council at military checkpoints' (Gonzalo Carrión, cited in Silva, 2017). Ramírez got around the military cordon by walking along footpaths in the dark and crossing a deep river, where she almost drowned, to travel to Managua hidden in a truck, where she was able to meet with Almagro and tell him of the abuses her community had been subjected to for refusing to give up their lands.

The Human Rights Council, in March 2016, called on states 'to promote a safe and enabling environment in which individuals, groups and organs of society, including those working on human rights and environmental issues, can operate free from threats, hindrance and insecurity' (UNHRC, 2016a, para. 4e). The right of human rights defenders to be protected by states from the actions of non-state actors as well as from government authorities, is grounded in fundamental norms of human rights law (UNHRC, 2004, para. 8), and is highlighted throughout the UN Declaration on Human Rights Defenders (UNDHRD, 1998).[15] Article 1 makes clear that 'everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels' (UNDHRD, 1998, art. 1).

Sociologist Oscar René Vargas argues that 'the President is aware that the movement is the most important social force that his government is facing' and that the admiration that Ramírez arouses, with her ability to organise and lead more than 90 demonstrations across the country, has irritated the authorities (René Vargas, 2017, cited in Silva, 2017). Gonzalo Carrión from the Nicaraguan Human Rights Centre insists: 'Ortega's government has visciously mistreated Francisca Ramírez and the farmers who follow her. Her rights have been violated, from the right to protest to the right to freedom of movement, and we fear that they will violate her most sacred right: to life' (cited in Silva, 2017). 'More than 200 peasant farmers have been arrested, about 100 have been beaten or wounded by gunfire, and the government has basically imposed a military state of siege in the area … Police checkpoints along the entire route to Nueva Guinea and military barricades in the area give the impression of a war zone' (Silva, 2017).

The UNSRHRD confirmed that 'ending impunity is an essential condition for ensuring the protection and safety of [human rights] defenders' (UNHRC,

15 See for example Articles 9(1) and 12(2), UNDHRD, 1998.

2013, para. 73). Moreover, 'the obligation of States to protect includes both negative and positive aspects… States should prevent violations of the rights of defenders under their jurisdiction by taking legal, judicial, administrative and all other measures to ensure the full enjoyment by defenders of their rights; investigating alleged violations; prosecuting alleged perpetrators; and providing defenders with remedies and reparation' (UNHRC, 2011, para. 10; UNHRC, 2016). This was also further affirmed by the judgement of the IACtHR in *Kawas-Fernández v. Honduras* (IACtHR, 2009).

Across Latin America the pattern of aggression in the form of repressive legislation, harassment, violence and threats used against social movements and local communities demonstrating against development mega-projects is used as a disciplinary measure to deter other communities from mobilising in support of these movements (Martinez, 2012, cited in Brand, 2013, p. 6). In Nicaragua, protesters have accused the government of using increased militarisation to create an atmosphere of intimidation and to stifle dissent and pressuring the media to downplay the concerns of environmentalists and landholders who face expropriation of their land (Collombon, 2014).

Conclusion

The HKND Group announced in June 2015 that the main work of the canal would commence in 2016. By December 2015 a further announcement confirmed that work on the canal would be suspended until late 2016, and that the funding sources for the project will be disclosed when the time is right (Agurcia and Blanco, 2015b), adding weight to the doubts that the project would be able to secure funding. The announcement came in the wake of news that the fortune of Wang Jing, the billionaire businessman behind the canal project, had plummeted as a result of the Chinese stock market crisis. A staggering 85 per cent of Wang's fortune has apparently been wiped out (White, 2015b). Activity at the end of 2016 at Brito on the Pacific coast (where the proposed West Port at the start of the canal will be located) suggests the project may be about to move out of a dormant phase, with residents suggesting engineers have conducted geological surveys and marked up the area. 'Farmers have been paid $3,000 to allow surveys of their land, and more than 500 acres have been purchased by HKND for road-widening'. However, residents in Obrajuelo, where the canal is supposed to enter the western side of Lake Nicaragua, say that the last time the Chinese came was two years ago 'when some people here threw stones at their car and broke a window. Since then, nothing's happened' (Watts, 2016). According to *Confidencial*, the canal project will likely require some, perhaps many, new investors. HKND Group might eventually be able to contribute 5–10 per cent only of the funds and the Ortega government would also be required to underwrite financial guarantees

to investors in the project. Quite how a country which is the second poorest in the Western Hemisphere would go about providing credible assurance for a $40 billion project is unclear (*Confidencial*, cited in White, 2015b).

The extent to which the tensions and conflicts surrounding the Nicaraguan canal project adhere to the observations of multiple international special rapporteurs regarding the human rights risks of indigenous peoples and human rights defenders points to the unique and distinct nature of conflicts surrounding natural resource exploitation. The economic interests at stake in the canal project amount to billions of dollars, both for the investment opportunities of the companies developing the projects (whether private or state owned) and for the state in securing increased GDP growth, seen as the platform for driving development and poverty reduction. Socially and environmentally at stake in the project is the cultural survival of the local indigenous and Afro-Nicaraguan communities along the construction route. Lake Nicaragua is an essential source of drinking water and critical habitat for important endemic species, making it a site of great importance in the face of climate change. This chapter has shown that the environmental and social consequences of developing mega-projects threaten not only human rights but also international environmental protections.

Nicaragua's InterOceanic Grand Canal project is another example of a 'troubled vision of development' (Swords, 2014, cited in Guardado, 2014). In the words of Nicaraguan economist Julio Francisco Báez, Nicaragua's current development model, 'an economically and environmentally unsustainable mega-project' is the antithesis of the argument that 'the only effective way of transitioning from a developing to a developed country (a process that Ortega heralds the canal project as achieving) is through a deliberate, sustained and persistent effort of structural change maintained over time' (Francisco Báez, 2015, cited in Perez, 2015).

President Ortega made a pragmatic political calculation to prioritise economic growth through the Grand Canal mega-project over the social and environmental pillars of sustainable development. Through a partnership with China – whose ability and willingness to navigate challenging business environments, and reputation for getting things done quickly has boosted its popularity in some host countries that are in need of capital, including Nicaragua (Myers, cited in Knowledge@Wharton, 2015) – Ortega has pursued economic growth on the premise that it is the only way to fund social programmes and reduce poverty. In this sense the canal project is evidence of political moves to the left that require pragmatic steps and so are inherently contradictory and inevitably lead to conflict (Becker, 2013, p. 45). The political cost of this choice has been the alienation of Ortega's traditional support base and strong opposition to the canal project.

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8. Sustainable development, the politics of place and decoloniality: contradictory or complementary approaches to Latin American futures?

Bogumiła Lisocka-Jaegermann

The three concepts mentioned in the title have been developed within three different theoretical and disciplinary contexts. The first one is part of 21st-century mainstream ideas of development, confirmed recently within the post-2015 Sustainable Development Goals. The second has been coined by anthropologists and geographers and refers both to specific features of places as contexts of human lives and to the protagonism of their inhabitants within the global dynamics affecting places and communities. Both have been widely discussed in Latin America and beyond. The third concept, the decolonial approach, is the Latin American claim of 'confronting and delinking from [...] the colonial matrix of power' (Mignolo, 2011b, p. xxvii) which, in practice, means the rejection of the universal character of Western European modes of thinking (Quijano, 2000, p. 544) as well as recognition and practical implementation of subaltern reason and solutions (Mignolo, 2011b). Each concept refers to a particular scenario of the future. This chapter discusses possible encounters of the three visions drawing on a critical reading of theoretical texts and the field experiences of the author. Tensions and contradictions separating the concepts are also discussed.

Sustainable development

In the introduction to *The Development Dictionary: A Guide to Knowledge as Power*, Wolfgang Sachs stated that 'the idea of development stands like a ruin in the intellectual landscape' and 'it is time to dismantle this mental structure' (1992b, p. 1). That dismantling has been attempted by many authors (Cornwall and Eade, 2010; Veltmeyer, 2011), but the basis of their critiques differ. Some of them look mainly at power relations underpinning development theory and practice. According to Sachs (1992a), Esteva (1992) and Escobar (1995), the modern meaning of the concept of development is basically a tool of hegemony of the 'developed' West over the rest of the 'underdeveloped' world. It reduces the role of the latter to that of a passive beneficiary of development programmes

shaped according to Western values, concepts, ideas and interests.[1] The post-development authors reject 'developmentalism' claiming that traditional local knowledge, bottom-up initiatives and solutions should be more important in the search for effective change for local communities than theories and concepts tailored elsewhere, giving cross-cultural evidence supporting that idea (Esteva and Prakash, 1998; GTZ, 2004; Latouche, 1998; Max-Neef, 1993). Another group of authors draw attention to the fact that our understanding of development is based on the concept of growth. In the 21st century critiques of the development paradigm based on growth have been incorporated into a number of disciplines – beyond individual and marginalised voices heard earlier in social sciences. They rose to mainstream attention after the publication of a report by economist Tim Jackson, issued in 2009 by the United Kingdom's official Sustainable Development Commission, titled 'Prosperity without Growth?' (Jackson, 2009). It promoted the actions of a network of academics and social activists called the 'de-growth movement' who promote the idea of increasing human wellbeing by aiming for smaller scale economies, recovering traditional livelihoods and reducing pressure on ecosystems.

The meaning and essence of sustainability have been analysed and debated from different perspectives ever since the concept was put onto the political and social agenda by the Brundtland Commission in 1987 (WCED, 1987). The concept is ambiguous and unclear (Bonevac, 2010), according to some critics – it is oxymoronic and therefore perverse when used by development institutions and governments (Latouche, 2004). Its original meaning was strongly related to the need for protection of environmental resources, but later, it acquired the sense of endless neoliberal, durable development based on growth with some limits to the exploitation of natural resources. Finally social sustainability was added as the third dimension of the concept. Consequently, today the term 'sustainable development' is used both by ecologists and by private business, even if their final objectives are completely different (Paton, 2008). In academic literature and among practitioners there are quite different ideas about the concept as a tool for effecting change. Three different positions can be discerned. The first of these is its rejection. Post-development critics say that exactly like in the case of the concept of development, sustainability is mainly rhetoric in the interest of the Western world and the neoliberal economy. Some ecologists stress that natural resources have been subjected to economic interest, so the concept does not work and they rather prefer to avoid it by introducing clearer notions, such as ecological citizenship. The other two positions accept the concept: in the first, held mainly by politicians and planners, sustainable development is understood as a model that can guide decision making and action. Technical indicators are introduced as a measure of 'progress' in its enforcement. The second position accepts the

1 See the author's previous publications: Lisocka-Jaegermann, 2011a and b.

contested character of the concept, trying to map its different meanings. Perhaps the best summary of debates on sustainability has been offered by Ian Scoones who reminds that even if it is one of the most widely used buzzword of the last twenty years, it is a 'boundary term', 'one where science meets politics and politics meets science' (Scoones, 2010, p. 153), valuable in spite of all the discrepancies.

The politics of place

Human geographers in the 1970s drew attention to the fact that we experience the world through places and they transformed the concept of 'place' in one of the central categories of their inquiry (Tuan, 1977). Relph observed that 'the essence of place lies in the largely unselfconscious intentionality that defines places as profound centers of human existence' (1976, p. 43). However the 'place consciousness', understood as recognition of the diversity of places as contexts and settings for livelihoods, became widespread only with the rising awareness of globalisation and its impact on places. Top-down national policies, universalist development discourse and practice, and last but not least neoliberal capitalism, were erasing differences, so it was necessary to defend places and the ways of life belonging to them against external pressures. 'Place in any case is essential to the critique of developmentalism, and imagining alternatives to it', writes Dirlik (1999, p. 44), referring to the work of Arturo Escobar (1995), who concludes that the hybrid forms that emerge as result of encounters between place-based native traditions and a universalist development discourse and practice may lead us towards alternative ways of thinking about life and change against a development discourse that claims to be unique and universal (Escobar, 1995, pp. 217–22). Diversity of place confirms the need to seek local solutions to local problems rather than applying strategies of change developed elsewhere according to other people's goals and values. That does not mean that places should be completely closed to the external world and immune to everything that comes from outside. Their inhabitants should have the possibility to select and reinterpret the ideas and solutions reaching them in order to adapt them to their own needs and values. Nowadays they usually engage in networks that extend far beyond their immediate surroundings, including global ones, and are able to seek suitable ideas by themselves.

This way of thinking, summarised above, has led some 'development thinkers' towards more place-based development concepts, such as endogenous development, with local resources and local participative strategies as its main elements. Others prefer to adhere to place, based on conceptual frameworks that do not refer to 'development' at all. Such is the case of the sustainable development framework discussed by the author in the context of sustainable development discourse, in her previous texts (Lisocka-Jaegermann, 2011a; 2015). Both the endogenous development concept and the sustainable

livelihoods framework[2] come from the academic and institutional world. But places themselves, through the activities of their inhabitants, generate new ideas and concepts. Researchers of social movements observed that places turned to be locations of new, place-based social and political activities. Strong place-based differentiation within social movements has been observed (Harcourt and Escobar, 2005). Particular local groups being part of wider movements with general common agendas engage in politics in ways that stem from their specific social, cultural and economic place-based experiences and problems. The 'politics of place' means that we acknowledge the possibility of choice rejecting the idea of the inevitable homogenisation of social, economic and cultural processes imposed by capitalism. It is important to stress again that the term 'politics of place' does not mean just a defence against modernity, global capital and a top-down development. It rather corresponds to attempts to build people's own place-based political agendas on the basis of their own experiences, knowledge, values and needs. Politics of place pretend to make space for new places with their own protagonism and dynamics. Inhabitants can assert their own visions creating realities that in a hybrid form combine elements of modernity and traditional ways. International and transnational non-governmental organisations as well as all sorts of social networks can be allies in such endeavours. The concept of place-based politics is useful not only as a tool that helps to understand ways in which social actors redefine politics and political knowledge both from their own particular locations and through global networks. There is hope that its dynamics will be able to provide potential resolutions to many of the tensions that have tended to riddle progressive political movements in their attempts to speak in solidarity across diverse cultures, pursue improved livelihoods without succumbing to Western notions of development, and more generally to help orient struggles for social justice without attempting to posit all encompassing theories and models.

Decoloniality

The third concept is probably the most complex one, as it refers to a relatively recent imaginative and ambitious project of a group of Latin American intellectuals and academics as well as Latin Americanists coming from elsewhere, seeking a new framework for a Latin American perspective on Latin America's past and future. I would just summarise the main ideas of Modernity/Coloniality and later what the Modernity/Coloniality/Decoloniality project[3] has produced, aiming for an explanation of the term 'decoloniality'.

2 For SLF see DFiD, 1999.

3 The following authors form the central part of the Modernity/Coloniality group: the Argentinean/Mexican philosopher Enrique Dussel, the Peruvian sociologist Aníbal Quijano, the Argentinean/US semiotician and cultural theorist Walter Mignolo, as well as

Authors that are part of Modernity/Coloniality/Decoloniality project discuss the concept of 'coloniality', although it has a much wider meaning than colonialism has. It refers to both the historical condition and an epistemological structure binding colonialism and imperialism to modernity. European modernity was created during the colonisation of the Americas and the structures of power that emerged at that time placed Europe at the centre of the world order. They were not only economic but also epistemic and racial, excluding peripheries outside Europe and later outside North America as well from modernity (Quijano, 2008). Anibal Quijano states that that system of power survived the end of colonialism and it is still alive as part of the contemporary neoliberal order reinforced by globalisation.

Quijano's concept of coloniality of power has been developed by Walter Mignolo. Talking about differences between the metropolitan centre and the colonial periphery, Mignolo comments that 'by colonial differences I mean... (and I should perhaps say "the colonial difference") the classification of the planet in the modern/colonial imaginary, by enacting coloniality of power, and energy and a machinery to transform differences into values' (2000, p. 13). Only the Western way of thinking and Western knowledge have been considered valuable and therefore universal. Peripheral knowledge comes '…from the shadow that the light of being has not been able to illumine. Our thought sets out from non-being, nothingness, otherness, exteriority, the mystery of non-sense. It is then a "barbarian" philosophy' (Dussel, 1985, p. 14). Coloniality of power therefore implies coloniality of knowledge, a concept discussed by several coloniality/modernity/decoloniality group thinkers. Nelson Maldonado Torres (2007) also identified a coloniality of being, drawing on Franz Fanon's writing (among others) on dehumanisation and non-existence experienced within the African diaspora. Decoloniality refers to the decolonisation of power, mind and knowledge, as well as of being. Quijano asserts, 'it is necessary to extricate oneself from the linkages between rationality/modernity and coloniality, first of all, and definitely from all power which is not constituted by free decisions made by free people' (Quijano, 2007, p. 177).

'Decoloniality' as a project involves not only political and economic delinking, but mainly delinking at the epistemic level. It refers to the deconstruction of modern knowledge and its direct links to coloniality. It is also a programme of relocation of thought in order to find new frameworks of plurality, with pluriversal rather than universal ways of thinking and feeling attributing a new meaning to intercultural dialogue. Breaking with modern concepts and delinking from the colonial matrix of power does not mean a

Colombian/US anthropologist Arturo Escobar, Venezuelan sociologist Edgardo Lander; a philosopher, Santiago Castro-Gómez, and an anthropologist, Eduardo Restrepo in Colombia; Catherine Walsh working in Quito; Puerto Rican sociologist Ramón Grosfogel working in the US, among others.

complete rejection of the modern conceptual structure. Decolonial thinkers claim we need a 'border thinking' or 'border epistemology' recognising that the Western foundation of modernity and of knowledge is, on the one hand, unavoidable and, on the other, highly limited and dangerous, and creating an equivalent space for non-Western conceptual ways, other logics coming from groups that have been excluded and subjugated by coloniality. 'Rather than a new paradigm "from Latin America" (as it could have been the case with dependency), the MC[D][4] project does not fit into a linear history of paradigms or epistemes; to do so would mean to integrate it into the history of modern thought. On the contrary, the MC[D]program should be seen as another way of thinking that runs counter to the great modernist narratives (Christianity, liberalism, and Marxism)' (Escobar, 2010, p. 34). Decolonial thinking clearly rejects the Western idea of development even if mitigated by such adjectives as 'sustainable' or 'endogenous', although the latter leaves more space for 'border approaches' than classical development discourse. I see it as compatible with place-based approaches, provided they leave enough room for 'epistemic disobedience' and 'other-thinking' claimed by decolonial thinkers.

Academic and non-academic lives of concepts. Locating knowledge? Research field notes

In 2011, declared by the general assembly of the United Nations (UN) as International Year for People of African Descent,[5] I visited several communities of Afrodescendants in rural and urban areas of southern and northern Peru, in Ecuador, Colombia and Venezuela, continuing a research project on place-based Afrodescendant communities initiated earlier in Bolivia (Lisocka-Jaegermann, 2010; 2011c) and Mexico (Lisocka-Jaegermann, 2011d). The proclamation of the Afrodescendants Year stated as its general aims: 'strengthening national actions and regional and international cooperation for the benefit of people of African descent in relation to their full enjoyment of economic, cultural, social, civil and political rights, their participation and integration in all political, economic, social and cultural aspects of society, and the promotion of a greater knowledge of and respect for their diverse heritage and culture'. I was interested to see to what extent local leaders and local inhabitants were aware of the year's agenda and in hearing their opinions about it.

The 'International year' theme was present in all the countries I visited. National programs were prepared, officers representing Afrodescendants in each country were named, meetings were held, information booklets and in some cases national reports on the situation of Afrodescendants were published.

4 MC[D] Modernity/Coloniality[Decoloniality].

5 Resolution A/RES/64/169, adopted on 18 December 2009.

Some state-wide programmes reached the communities. However it was clear that national programmes concerned Afroperuvians, Afroecuadorians, Afrocolombians and Afrovenezuelans, and their 'problems', homogenised by a unifying discourse of each one of the corresponding countries' institutions. In the context of diversity of situations Afrodescendants live in even within one country, the programmes were not addressing people's 'real problems' in 'real places'. Diversity of local conditions, local agendas and claims was by no means the first or the most obvious observation and conclusion drawn from interviews with local leaders and community members.

'They are talking constantly about sustainable development and human rights but they do not want to listen about illegal mining, logging, oil palm plantations' expansion – and these are the problems we have here…' commented one of the local leaders in Esmeraldas, Ecuador, stressing that particular rural communities usually face one or two of them in differing degree. The official discourse of 'sustainable development' is contradictory with everyday local experiences of rural communities. Illegal mining is a common practice in areas inhabited by Afrodescendants, both in Ecuador and in Colombia. Even if the state institutions considering the serious, irreversible environmental damage it causes and its links to violence make efforts to stop it, on the legal level the state promotes differentiated access to and control over land-based resources excluding Afrodescendant communities from accessing environmental goods in their territories while favouring private actors (Vélez Torrez, 2014). Similar mechanisms are present in the case of large scale oil palm (*Elaeis guineensis*) plantations in Ecuadorian San Lorenzo Canton, Esmeraldas province, where they were introduced in 1998. I travelled through Esmeraldas in 1997; 14 years later I could experience the dramatic transformation of landscape for myself: a sea of oil palms replaced coastal forests and pastures replaced the small farms I had observed previously. Research confirms the detrimental agro-ecological and social consequences of the expansion of oil palm in the Ecuadorian Pacific coast (Hazlewood, 2012). In Colombia the process has been intensified by political instability and violence, contributing to massive dispersion of rural population from its land (Maher, 2015).

Loss of control over resources managed and used by local communities which lack instruments of effective self-defence in cases where illegal or legal activities are related to direct violence and lack of public support can have a strictly political background, as I observed on the Colombia-Ecuador border. However more often it is the result of economic activities threatening local livelihoods directly, as in the cases described above, or that of illegal logging or destruction of mangroves, or indirectly. In the Colombian Cauca valley communities surrounded by big sugar cane plantations complained that even if they keep their land, the reduction of water resources and the chemicals used

by plantations' management means they cannot continue living the way they used to in the past.

Policies protecting the environment are increasingly leading towards empowerment of Afrodescendant communities, but they are not effective enough due to lack of recognition of the diversity of local contexts, among other reasons. In a northern Peruvian community I was told people had been offered several workshops on racial discrimination, which was not an issue at all in that small, still quite isolated place, although the inhabitants were perfectly aware that discrimination was a serious issue for those who decided to migrate temporarily or permanently to Lima. In several other places local leaders complained that NGOs and state institutions usually have their own agendas justified by funding mechanisms, so they offer training, workshops and expertise on issues corresponding to their projects and not to the current needs of the communities they want to work with. Community leaders can accept or reject the proposals. If they reject them they risk accusations from the institutions that they lack the will to cooperate, and community members believe they are doing nothing, while if they accept the proposals, community members are annoyed by initiatives that do not fit their context.

Growing numbers of urban Afro Latin Americans in all the countries I visited within the project may have caused a certain 'urban bias' within the agendas of programmes developed for Afro communities, especially as urban leaders have many more opportunities to interact directly with public officers and urban NGOs are more visible within national debates on Afro issues than rural ones. But even within the urban setting we can observe deep differentiation of the demographic and social characteristics of Afrodescendants prevailing in cities of one country. Colombia offers a good example of such a situation. Diversity of regional cultural patterns and of current political situations contribute to the fact that it is difficult to find common ground between the Afrocolombians of Cali, where thousands of relatively recent rural migrants/refugees fleeing from the Pacific coast villages due to violence settle in poor, stigmatised districts, and a much more diverse group residing in Bogota where professional and, in general much better educated, Afrocolombians have tended to seek opportunities for a better life. Cartagena, with its particular patterns of Caribbean Afrocolombian urban culture, is different from either of the two cases mentioned above.

Local and micro-regional specificity of problems was clearly opposed to the national and international agendas of the year 2011, and that observation goes far beyond the issue of institutional dynamics. Some people I talked to in communities showed a clear preference for a place-based identity over a national-racial-ethnic one, complaining that the state-imposed denomination which brings them together with groups who share only the same skin colour and nationality does not correspond to any reality. I observed one

of the most significant examples of such discrepancies in the community of Zaña in northern Peru. Zaña has a community-owned, community-run and community-designed museum which exhibits Afroperuvian musical instruments and objects related to local history as well as to the histories of Afrolatinamerican groups in Bolivia and Ecuador. Immediately upon arrival I was asked by the first person passing by whether I wanted to see the museum. The key was brought and one of the young teenage guides was called. During my week-long stay in Zaña I saw it as a genuinely locally owned place, authentic and closely related to local identity, with local guides and constant informal visits from local children and youth who were dropping by in order to play the instruments. The museum organised artistic and academic events concentrating on the recovery of some of the local traditions. However, in the opinion of the director of the Afroperuvian Culture museum in the capital city Lima, presenting the 'official history' and the Afroperuvian cultural identity relating to the experiences of groups and individuals living south of Lima and in the city, Zaña's museum lacked any value, being a messy collection of accidental objects gathered and exhibited by non-professionals. Zaña was funded as a Spanish *villa,* and its inhabitants of mixed Spanish, Black, indigenous and Chinese origin do not see themselves as Afroperuvians in racial terms even if they identify with the Afroperuvian culture present in the place's everyday practices. Local leaders claim that the concept of Afroperuvian should not be applied on the basis of racial but rather cultural criteria. However, such an approach is not accepted easily by the state's institutions and some of the main Afroperuvian organisations which stick to the unified image of Afroperuvian identity. One of its key elements is a strong, consolidated image of Afroperuvian musical traditions constructed several hundred kilometres south of Zaña, well-known in the country and internationally due to such popular artists as Nicomedes Santa Cruz, Afroperú groups and Susana Baca who led the Ministry of Culture of Peru while I was doing the research. The Ballumbrioso family in El Carmen and a huge Afroperuvian musical festival taking place each year in the locality are a showcase of Afroperuvian folklore. Musical traditions of Afroperuvian communities in the north of the country had a colonial background, are not well-known and are less attractive to the present-day wider audience, but form an important framework for local identities.

During my trip I was able to observe multiple examples of 'our ways' (*lo propio*), as opposed to the 'official ones', combined with a strong sense of empowerment of people in places, local activists ready to negotiate with external actors, seeking coalitions with other places rather than being part of amorphous big structures. Particularly in Colombia I was told constantly about cultural and social differences between Afrocolombians of the southern and northern parts of the Pacific coast, the Pacific coast and the Caribbean, et cetera.

Differing present day economic and political contexts are deepening differences. Migration to the cities and better and more accessible education contribute to growing class differences among Afrodescendants. Legal protection of national groups and corresponding state policies, including initiatives related to 2011, unify diversity from above and cause local adverse reactions.

The links of such attitudes to the concept of 'politics of place' are clear, and have been confirmed by my observations and interviews not only in Peruvian but also in Ecuadorian, Colombian and Venezuelan Afrodescendant communities. They were also part of the results of my previous research in Mexico and Bolivia (Lisocka-Jaegermann, 2011c; 2011d). The relationship of my research results to the decolonial agenda is more complex, but obvious if the historical context is taken into account. Afrodescendants communities living in the Andean countries have until recently been invisible. Their experiences and history were silenced and were not part of national narratives. It was only in the 1990s when, particularly in Colombia and Ecuador, partly as a result of legal changes, they were recognised as a separate group of citizens. The reconstruction and strengthening of Afrodescendant identities is taking place in communities and is still being debated in the region. An Afroecuadorian intellectual, Juan García Salazar, talks about the need for ethno-education that could give back to the people the sense and pride of being themselves and a sense of belonging: 'The struggle is to return this form of knowledge, and in this way understand life, understand our own knowledges and insert in the educational process our vision of history and our vision of knowledge' (Walsh and García Salazar, 2002, p. 323). In the book on *Territories, Territorialities and De-territorialisation* (2010), which Garcia Salazar edited as a 'pedagogic exercise to reflect upon ancestral territories', he presents testimonies gathered in communities on their past, present and possible futures. A historical experience of maroons, runaway slaves (*cimarrones*) who once created their own liberated territories called *palenques*, is remembered and transformed symbolically into one of the possible links between the past and the future. 'Maroon thinking' and *palenque* as a proper, free space appear both in the intellectual discourse and practice of Afrodescendant organisations, as synonyms of '*lo propio*' [the own way], and both have much to do with decolonial delinking from the modernity/coloniality world. Walsh comments that:

> The use of *cimarrón/maroon* here is not meant to indicate the fugitive nature of the term, but rather its lived significance: the recuperation and reconstruction of existence, of liberty, and of freedom, human conditions that for Afro-descendants in the Andean region (and generally in the Americas) still remain illusory. Cimarronism today denotes the revolutionary and autonomous thought found in the struggles for human and ancestral rights, the right to life with dignity, and the development and respect of ethnic, cultural, historic and political identities […] It is to recall

> how the first maroons constructed their liberty, freedom, and thinking in community, in territorial spaces or palenques defined for their collectivity, insurgency, and resistance. But it also to recognise the emergent presence and visibility in recent years, of social, political, and epistemic positionings by Afro-descendant communities, organisations, and groups, aimed at confronting colonial and racialised structures and at marking their colonial ancestral-lived difference. It is in this context that the notion of cimarrón thought and of palenques, also understood as liberated spaces of thought and being, take on an important significance, serving as a kind of floating signifier or bridge between the struggles of the past and present and in response to the physical, symbolic, existential, and epistemic violence of modernity and coloniality (Walsh, 2012, p. 24).

Afrodescendants seek expressions of their own ways, logics, forms and projects of 'other' thought that might lead to the cultural, social, economic and political transformation of their communities.

The decolonial agenda might also be found in practical claims for an authentically legitimate governance pattern that would suit Afrodescendant communities. In all the countries visited I could observe tensions between people living 'in places', including local activists and national Afro-leaders, even if they came from the same regions or localities. Opinions like the following ones: 'Whom does he represent? We had not elected him'; 'He was named by the authorities and thinks he is the king of the region. He does not represent anybody but himself' repeated more than twice – even if the people expressing them showed friendly attitudes towards the people holding those posts. Literature on Afrocolombian organisations confirms the rejection of the principle of representation among them. That principle has been assumed by state authorities following examples of indigenous communities with their internal power structures, where local assemblies elect leaders who can represent communities. In Afrodescendant communities there is a wide acceptance of deliberation as a method and as a goal instead. Issues should be discussed by everybody, no matter how long it takes to do it. Such an approach does not correspond to the system of representative democracy. 'They talk and talk and never come to solutions', commented a ministerial officer I interviewed, adding that some decisions have to be taken quickly and the state has to deal with individuals representing communities, even if they did not like it all. The issue was problematic when states looked for partners while developing legal solutions for Afrodescendant populations in the 1990s. Under time and institutional pressures 'representants' were sought and named. The same procedure is being applied while ministerial officers responsible for Afro issues are being nominated. Recruited from among the elites of Afrodescendant communities, they are often consulted as representatives of the group, accompanied by leaders of the biggest, mainly urban-based formal NGOs of Afrodescendant communities. The political strategies of elite leaders

are not the same. Some of them decide to join one of the existing political parties, some prefer to act as independent members of parliament representing the Afrodescendants' NGOs and consequently, the whole group. Some of them act outside formal party and parliamentary structures using the media and particularly the internet as a powerful tool of contact with the public. In all the cases mentioned deliberation is difficult to follow as a method of direct, everyday work, and that causes problems in contacts with local communities who do not want any longer to be mere receptors of decisions taken somewhere else. The only case where the local power structures allowed deliberation, at least to some degree, is Venezuela and its community councils. I was able to take part in its meeting in the Guinea district of the city of Coro, Falcón state. Even though Coro is not associated with Afrovenezuelan culture represented by the Barlovento region, Guinea has an important Afrovenezuelan population. The council's meeting was long and several decisions were postponed, because council members wanted to discuss them in detail with their neighbours or peers. The small territorial scale on which the council operated and the everyday practices of intense street social life made this possible without disrupting the council's agenda.

Conclusion

This chapter has discussed three concepts: sustainable development; politics of place; and decoloniality; and related them to some of the research experiences of the author. I strongly believe that academics representing critical approaches within social sciences should be seriously concerned about the power of concepts that organise our research endeavour usually in accordance with mainstream disciplinary paradigms. Our way of thinking is so strongly channelled through the existing sets of established ideas that we are unable to notice what is left beyond them. There is not enough critical approach to concepts treated as obvious and therefore proper. We seldom think about their origin, or hidden sense they might contain. Emmánuel Lizcano states that 'the well-known metaphors think (for) us, while, in all our innocence, we believe that it us who think through them' (Lizcano, 2006, p. 275).

Such worries have led some authors towards deconstruction, understood as the critical dismantling of traditional modes of thought and overall accepted concepts. In the field of social sciences, as early as the 1990s Immanuel Wallenstein claimed that we should 'unthink' – radically revise and discard – many of the presumptions that still remain the foundation of dominant perspectives today. While in the 19th century they were liberating, now instead they are barriers to a clear understanding of our social world (Wallenstein, 1991). A similar idea inspired Alain Touraine's book *Penser Autrement* (2007) where he claims the return of an empowered individual subject as a much

needed perspective within 21st-century social sciences. 'Ideas that in our nearest past have been the most popular ones do not explain anything anymore and are useless as they only widen the gap separating the political and social world from the world of thought' (Touraine, 2007, p. 17).

Whereas I find the concept of 'sustainable development' ceases to be inspiring, the 'politics of place' is still useful as it draws our attention towards underestimated diversity and stresses the importance of spatial dimension as a key reference of human experiences. 'Decoloniality' as a concept is challenging as it requires the demanding exercise of moving beyond mental infrastructures we have been accustomed to for a long time. Mignolo posits that:

> The genealogy of decolonial thinking is pluri-versal (not uni-versal). As such, each knot on the web of this genealogy is a point of de-linking and opening that re-introduces languages, memories, economies, social organisations, and at least double subjectivities: the splendor and the miseries of the imperial legacy, and the indelible footprint of what existed that has been converted into the colonial wound; in the degradation of humanity, in the inferiority of the pagans, the primitives, the under-developed, the non-democratic (Mignolo, 2011a, p. 65).

Even if 'border thinking' is not easy it is definitely worth the effort, helping to understand both other realities and our own limitations.

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